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RICHARD W. NAGEL, CLERK OF COURT  
COLUMBUS, OHIO

**THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO**

GWANJUN KIM  
10160 Carr Rd  
Jeffersonville, OH 43128

*Plaintiff,*

Case No. 2 : 1 8 C V 0 0 2 9

**COMPLAINT** Judge Graham

Vs.

**MAGISTRATE JUDGE VASCURA**

GRAND VALLEY STATE UNIVERSITY; THOMAS J. HAAS;  
GRAND VALLEY STATE UNIVERSITY, COLLEGE OF EDUCATION;  
ELAINE C. COLLINS; PAULA LANCASTER; OLIVIA A. WILLIAMS;  
GRAND VALLEY STATE UNIVERSITY, COLLEGE OF COMMUNITY AND  
PUBLIC SERVICE; George Grant; LOIS SMITH OWENS;

*Defendants*

1 campus drive Allendale Michigan 49401

EDWARD J BARDELLI;  
GREGORY M. KILBY

*Defendants*

900 Fifth Third Center 111 Lyon Street N.W.  
Grand Rapids, MI 49503  
(616)752-2712

## COMPLAINT

### JURISDICTIONAL STATEMENT

Plaintiff is re-filing Complaint the claim that the issues were statute of limitation at the United States District Court Western Michigan Case no 16-2321 that the United States Court of Appeal for The Sixth Circuit Case no 16-2321 ordered that on December 22, 2017 “we VACATE the district court’s judgment and REMAND to the district court [of Michigan] to dismiss this case for lack of subject-matter jurisdiction *See*. Exhibit A. “Shall be tolled while the claim is pending and for a period of 30 days after it is dismissed” 28 U.S. Code § 1367(d).

On January, 9 2018 the re-filing will relate back to the original filing that is, the re-filed lawsuit will be treated as though it was filed on the original filing date on March 28, 2016. Accordingly, the plaintiff will not be barred from seeking relief based on the same claims defendants violated of under Federal Rule of Civil Procedure 9(b) and involving questions of False Claim Act, 31 U.S.C. § 3729(a)(1)(B) and will be allowed to pursue his claims despite the re-filed lawsuit being outside of the statute of limitations period. *See Sharp Bros. Contr. v. Westvaco Corp.*, 817 P.2d 547 (Colo. App. 1991).

This Court has Supplemental jurisdiction 28 U.S. Code § 1367 over the case. It can be hear cases that involving a dispute among resident of different state; Most *Kim III* defendants are citizen of the State of Michigan. No defendants are a citizen

of the same state as any plaintiff pursuant to 28 U.S.C. § 1332. Plaintiff is seeking damages demand amount of \$5,000,000.00 each defendant 31 U.S. Code § 3729 (b)(2)(A) and demand amount \$ fifty-five (55) Million total.

Plaintiff has any corporate ownership and pleads grounds for relief under 9(b), and state a claim upon which relief can be granted pursuant to Federal Rule of Civil Procedure 12(b)(6),and plead fraud with particularity under Federal Rule of Civil Procedure 9(b)

## INTRODUCTION

### A. Plaintiff

1. Plaintiff GWANJUN KIM is a citizen of the United States and a resident of the State of Ohio, County of Clinton.

In Marsh, 2011 Kim filed against defendants named in *Kim v. Grand Valley State University*,.(*Kim I*) the United State District Court Western Michigan case # 1:11-cv-00233. The United States Court of Appeal for the Six Circuit 12-01401, 12-02407, 13-02354. (*Kim I*)

Thomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A. Williams; George Grant; Lois smith Owens; Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of Community and Public Service Nine(9) defendants

The district court finds that dismiss Kim's § 1983 and Title VI claim for failure to state a claim upon which relief can be granted: the *Kim I* Defendants "to correct the miscalculation"<sup>1</sup> "and "follow the Grand Valley University (their)Rules"<sup>2</sup>

On March, 28 2016, ("*Kim II*") brought a False Claim Act, 31 U.S.C. § 3730(b)(1) A person may bring a civil action for a violation of section 3729 for the person. Kim filed against defendants named in *Kim v. Grand Valley State University*, (*Kim II*) the United State District Court Western Michigan case No. 1:16-CV-309.

B. Eleven (11). *Kim II* Defendants

2. (1) Defendants Grand Valley States University(GVSU); (2)Grand Valley State University College of Education (GVSU COE);(3) Grand Valley State University College of Community and Public Service (GVSU COCOP);(4) President GVSU Tomas J. Haas (Haas);(5) Dean of GVSU COE Elaine C. Collins (Collins); (6)Chair of the GVSU COE Paula Lancaster(Lancaster);(7) GVSU COE professor Olivia A Williams(Williams); and(8) Dean of GVSU COCOP George Grant Jr.(Grant) ;(9) GVSU COCOP Instructor Lois Smith Owens (Owens) ;(10) Attorney Defendant Edward J Bardelli (P53849) (Bardelli); and(11) Attorney Defendant Gregory M. Kilby(P68266)(Kilby) eleven (11) defendants. *Kim II* defendants.

<sup>1</sup> Count I Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of "D" and The Grand Valley State University independently calculated 700+304=700points grade of "C", because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abcedd,7.

<sup>2</sup> Count II ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

Count III Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl.at ¶¶6, 7,8,12

Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens

Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service

August 19, 2016 the district court finds granted Defendants' Motion to dismiss that Kim's False Claim Act, 31 U.S.C. § 3729(a)(1)(B) that this caused claims *for Kim II* judgment appeal to Six circuit Court. On December 22, 2017 the Sixth court of appeal Case no 16-2321 finds that "we VACATE the district court's judgment<sup>3</sup> and REMAND to the district court to dismiss this case for lack of subject-matter jurisdiction"(Exhibit A)

On January 2018, ("*Kim III*") RE-brought a False Claim Act, 31 U.S.C. § 3730(b)(1) again, "A person may bring a civil action for a violation of section 3729 for the person" 31 U.S.C. § 3730(b)(1). Kim filed against defendants named in *Kim v. Grand Valley State University*.,(*Kim II*) the United State District Court Western Indiana. In this case, plaintiff could submit a new complaint with a valid claim and continue to adjudicate.

C . Eleven (11) *Kim III* Defendants

(1) Grand Valley States University(GVSU); (2)Grand Valley State University College of Education (GVSU COE);(3) Grand Valley State University College of Community and Public Service (GVSU COCOP);(4) President GVSU Tomas J. Haas (Haas);(5) Dean of GVSU COE Elaine C. Collins (Collins); (6)Chair of the GVSU COE Paula Lancaster(Lancaster);(7) GVSU COE professor Olivia A Williams(Williams); and(8) Dean of GVSU COCOP George Grant Jr.(Grant) ;(9) GVSU COCOP Instructor Lois Smith Owens (Owens)*Kim III* defendants.

1 campus drive Allendale Michigan 49401

(10) Attorney Defendant Edward J Bardelli (P53849) (Bardelli); and(11) Attorney

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<sup>3</sup> August 19, 2016 Judgment was favor of all named defendants and against Plaintiff GwanJun Kim.

Defendant Gregory M. Kilby(P68266)(Kilby) eleven (11) defendants. *Kim III* defendants as same as *Kim II* defendants

900 Fifth Third Center 111 Lyon Street N.W.  
Grand Rapids, MI 49503-2487

Plaintiff GWANJUN KIM alleges as follows:

*Kim III*, Defendants over Seven (7) years AND *the thirteenth [fourteenth] times* " violated at Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure at the United State District Court Western Michigan case # 1:11-cv-00233. ("*Kim I*")Articulate the appropriate rule 9(b) standard for claims alleging a widespread scheme to commit fraud and submit false claims demanded sum \$55 million exclusive of interest and costs.

Kim asserts that this shame caused of the claim for defendants'

#### D. CAUSE OF ACTION

31U.S.C. § 3730 Civil Action for False Claim Act

#### COUNT I.

*Kim I, II, III*, Defendants Grand Valley State University el., al "*knowingly makes, fraudulent claim.*" 31 U.S.C. § 3729(a)(1)(B)that the U.S. Marshals Record indicated that the U.S. Marshal Christine Elmy (b)(7)(C) actually mailed eighteenth(18)of the USM Form-299 *Receipt of Summons and complaint* to nine (9)Defendants (Exhibit C)that On March 28, 2011 that "*Kim I* [nine (9)] defendants has not been serve "(Order *Kim II*, ECF No. 34 p.2 )(Exhibit B)

3 Kim alleges that Kim “pleads with particularity”<sup>4</sup> that Grand Valley State University el., al “*knowingly makes, statement material to a false or fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) at

the United State District Court Western Michigan case # 1:11-cv-00233,(*Kim I*) # 1:16-cv-00309-PLM-PJG and United States Court of Appeal for the Six Circuit 12-1401, 12-02407, and 13-02354(*Kim I*) The *Kim I* and *Kim II* Judge Jonker belied by defendants

a. *the thirteenth [fourteenth] times*”<sup>5</sup> “false statement made by defendant”<sup>6</sup> that “claim was submitted”<sup>7</sup> Indifference on August 19, 2016 Chief Judge Jonker order that “[on March 28,2011“*Kim I* [nine (9)] defendants has not been serve “(Order *Kim II*, ECF No. 34 p.2 )(Exhibit B)<sup>8</sup>,as to its truth March 28, 2011defendants has been serve but Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. To See, Exhibit C p.1, 8, 11,14, 17,20, 23, 26 and 4 (9defendants)

Defendants “allegedly false statement made by defendant”<sup>9</sup> that the Clerk’s office issued Summons to all defendants on Marsh 25, 2011. Fifty eight (58) days later, on May 18, 2011, and eighty four (84days) later June 16, 2011, the U.S.

<sup>4</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>5</sup> *Kim II*, Defendants argued defendants’ motion to dismiss that “This is the thirteenth times this that Kim has brought before the Court the issue (*Kim II*, ECF No. 32 p.2 ).

<sup>6</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>7</sup> “has pled facts which support a strong inference that a claim was submitted.” *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011)

<sup>8</sup> Exhibit C p.1, 8,11,14,17,20,23, 26 (8defendants)

<sup>9</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

Marshals mailed the nine(9)Summons, nine (9) complaint and the eight (9)USM Form-299 *Receipt of Summons* to nine(9) defendants *See*. Exhibit C p 3, 8, 11,14, 17,20, 23, 26 and 4(9defendants) or Exhibit D.

,as to its truth, the Clerk's office issued Summons to all defendants on Marsh 25, 2011. Three days later , on March 28, 2011 the U.S. Marshals mailed the nine(9)Summons, nine (9) complaint and the eight (8)USM Form-299 *Receipt of Summons* to nine(9) defendants *See*. Exhibit C p. 7, 10,13 ,16 ,19, 22, 25, and June 16, 2011 defendant Lois Smith Owens has been serve by the U.S. Marshals. *See*. Exhibit C p. 8

The U.S. Marshals Record indicated that the U.S. Marshal Christine Elmy (b)(7)(C) actually mailed eighteenth(18)of the USM Form-299 *Receipt of Summons* to nine (9)Defendants see. Exhibit C because defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. Exhibit C p.1, 8, 11, 14, 17, 20, 23, 26 and 6

*Kim I* the nine (9) defendants' eighteen (18) USM Form-299 *Receipt of Summons* addresses are same as

Thomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A. Williams; George Grant; Lois smith Owens; Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of Community and Public Service Nine(9)defendants.  
1 campus drive Allendale Michigan 49401. *See*. Exhibit C.



b. Defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that “claim was submitted”<sup>10</sup> Indifference August 19, 2016 *Kim I, II* Judge Jonker ordered that “Their answer- waived service [defendants Answered Seventy-one (71) days later<sup>11</sup> June 3, 2011] -was therefore timely[*within 21days*<sup>12</sup>]” (Order *Kim II*, ECF No. 34 p.2 )

,as to its truth March 28, 2011defendants has been serve but Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. To See, Exhibit C p.1, 8, 11,14, 17,20, 23, 26(defendants) and defendants Answered Seventy-one (71) days later<sup>13</sup> June 3, 2011 was therefore untimely[*within 21days*<sup>14</sup>].The *Kim I, Kim II* Judge Jonker had been maliciously denied *Kim I*, Application for entry of default and default Judgment. Kim has “establish liability”<sup>15</sup> See *Allison Engine Co.*, 553 U.S. at 671-72. The U.S. Sixth Court of appeal “VACATE the district court’s judgment and REMAND to the district Court...”This is evidence that “defendants is liable for the misconduct alleged *Id*”.

c. Defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that on December 18, 2017 the U.S. Marshal service William E.

<sup>10</sup> “has pled facts which support a strong inference that a claim was submitted.” *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

<sup>11</sup> On March 25, 2011 the court issued Summons and delivered to US. Marshals service. June 3, 2011 defendants answered to complaint (Exhibit D)

<sup>12</sup> Rule 12(a)(1)(A)(i)A defendant must serve an answer within 21 days after being served with the summons and complaint.

<sup>13</sup> On March 25, 2011 the court issued Summons and delivered to US. Marshals service. June 3, 2011 defendants answered to complaint (Exhibit D)

<sup>14</sup> Rule 12(a)(1)(A)(i)A defendant must serve an answer within 21 days after being served with the summons and complaint.

<sup>15</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

Bordley indicated that “Name of Marshals Service personal [U.S. Marshal Christine Elmy (b)(7)(C)]and third party [*Kim I* defendant Edward J. Bardelli ] have been deleted”<sup>16</sup>the Exhibit C and D. see. at Exhibit E. which is evidence of the “defendants is liable for the misconduct alleged *Id*”.

Kim had been requests Freedom of information to U.S. Marshals “pertaining to 1:11-cv-00233[*Kim I*] and 1: 16-CV-00309-PLM-PJG[*Kim II*] that On December 18, 2017 FOIPA Office of General Counsel<sup>17</sup>that “Name of Marshals Service personal [U.S. Marshal Christine Elmy (b)(7)(C)]and third party [*Kim I* defendant Edward J. Bardelli. ] have been deleted” Exhibit C and D. see. at Exhibit E

However, Kim has this evidence(exhibit C, and D)that March 28, 2011, June 16, 201 the U.S. Marshal Christine Elmy (b)(7)(C) actually mailed the nine (9) Summons, nine (9)complaint, and the USM Form -299 *Notice and Acknowledge of Receipt of Summons and Complaint by Mail* and had NEVER been returned to the Court.

*Kim I* defendants’ counsel- *Kim II* and *Kim III*- Defendant-Gregory M. Kilby(P68266) “*knowingly makes, statement material to a false or fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B)that On or about April 9, 2011, the Defendants filed “Defendants Opposition to Plaintiff’s Application for Entry of Default that

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<sup>16</sup> See. Exhibit B.

<sup>17</sup> The U.S. Department of justice United States Marshals Service Office of General Counsel William E. Bordley Associate General Counsel FOIPA Office of General Counsel

“[March 28, 2011<sup>18</sup>] Plaintiff [the U.S Marshals service] has not served any Defendant with copy of the Summons, his original Complaint” (*Kim I*, ECF No. 14 p.2) Exhibit F.

Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. Exhibit C p.1, 8, 11, 14, 17,20, 23, 26 and 6

*Kim I* defendants’ counsel- *Kim II* and *Kim III*- Defendant-Edward J Bardelli (P53849 “*knowingly makes, statement material to a false or fraudulent claim*” 31 U.S.C. §3729(a)(1)(B) On June 26, 2012 at Six circuit Court;

“[March 28, 2011<sup>19</sup>] Kim [the U.S Marshals service] did not serve the Summons or a copy of his Complaint on any Defendants” (Case :12-1401 filed 06/26/2012 p. 40). Exhibit G.

Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. See. Exhibit C p.1, 8, 11, 14, 17,20, 23, 26 and 6

Additionally the *solely* convincing evidence that

***Kim I* Defendants’ counsel Bardelli (*Kim II* defendants) “admit that Each defendants received Dkt # 1 Complaint [and *Receipt of Summons* the U.S. Marshals service on March 28, 2011]” Exhibit K**

On June 26, 2012 at Six circuit Court Appellee’s Brief that Defendants “*knowingly makes, statement material to a false or fraudulent claim*” 31 U.S.C. §3729(a)(1)(B)

“[March 28, 2011] Kim [the U.S Marshals service] did not serve the Summons or a copy of his Complaint on any Defendants” (Case :12-1401 filed 06/26/2012 p. 40).

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<sup>18</sup> To See, defendants had NEVER been returned the USM Form -299 *Notice and Acknowledge of Receipt of Summons and Complaint* Exhibit C p 7,10, 13, 16, 19, 22, 25, and p 6 to the Court.

<sup>19</sup> To See, defendants had NEVER been returned the USM Form -299 *Notice and Acknowledge of Receipt of Summons and Complaint* Exhibit C p 7,10, 13, 16, 19, 22, 25, and p 6 to the Court.

Exhibit G.

Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. Exhibit C p.1, 8, 11, 14, 17,20, 23, 26 and 6

*Kim II* defendants' counsel, Kristina M.Araya (P74507) "*knowingly makes, statement material to a false or fraudulent claim*" 31 U.S.C. §3729(a)(1)(B)that at district Court on April 27, 2016 Brief in Support of Motion to Dismiss that **Indifference** " "they had never been served. (*KimI* Dkt. 14, PageID.107-110.)" *Kim II* Dkt. 21, PageID.72. (Exhibit H)

,as to its truth, defendants had NEVER been returned the USM Form -299 *Notice and Acknowledge of Receipt of Summons and Complaint* Exhibit C p 7,10, 13, 16, 19, 22, 25, and p 6 to the Court..

*Kim II* Appellees' counsel, Conor B. Dugan "*knowingly statement material to a false* 31 U.S.C. § 3729(a)(1)(B) that **Indifference** "there "is no evidence that [Marsh 28, 2011]defendants were served prior to filing of [the] additional application" and there was no basis for the Clerk's Office to enter either a default or a default judgment against any defendants" (id. at 2, Pg.ID 35.)" Appellees' Brief Case :16-2321 filed 08/25/2017 p.19 Exhibit I.

,as to its truth there is evidence that defendants had NEVER been [defendants had NEVER been returned the USM Form -299 *Notice and Acknowledge of Receipt of Summons and Complaint* Exhibit C p 7,10, 13, 16, 19, 22, 25, and p 6 to the Court.

Kim has “establish liability.”<sup>20</sup> See *Allison Engine Co.*, 553 U.S. at 671-72.

There was basis for the Clerk’s Office to enter either a default or a default judgment against defendants.

The reason, *Kim II* defendants “*knowingly statement material to a false*” 31 U.S.C. § 3729(a)(1)(B) because the *Kim I*, nine (9) defendants had been failed answerer to complaint within seventy- one (71) days<sup>21</sup> on June 3, 2011. The (9) defendants must answer *within 21 days* Rule 12(a)(1)(A)(i).

*Kim II* Judge Maloney Kim II had been contrary finds that “only to adverse rulings [ “*the thirteenth [fourteenth] times*” ...., this case be reassigned to Chief Judge Jonker in order to promote judicial economy...., it must arise from some extra Judicial source” (*Kim II*, ECF No. 32 p.2).

The *Kim I*, *Kim II* judge jonker belied by defendants that “*Kim I*, defendants had not been served” (Order, *Kim II*. P.2, ECF No 34) Exhibit B. The Judge Jonker believes that

the Clerk’s office issued Summons to all defendants on Marsh 25, 2011. Fifty eight (58) days later<sup>22</sup>, on May 18. 2011, and eighty four (84days) later June 16, 2011, the U.S. Marshals mailed the Summons, complaint and the USM Form-299 *Receipt of Summons* to Defendants and returned the USM Form-299 *Receipt of Summons* to the Court. To See, Exhibit C p.1, 8,11,14, 17,20,23, 26 or Exhibit D and See. Exhibit C.p.4 or Exhibit D.

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<sup>20</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court] remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>21</sup> On March 25, 2011 the court issued Summons and delivered to the US. Marshals service. *Kim I*, Nine(9)defendants Answered to complaint on June 3, 2011

<sup>22</sup> The Clerk’s office issued Summons to all defendants on Marsh 25, 2011 58days later the on May 18. 2011 the U.S. Marshal Christine Elmy (b)(7)(C) mailed the USM Form-299 *Receipt of Summons* again because Defendants had never been returned USM Form-299 *Receipt of Summons* on March 28,2011

This evidence that Kim *I, II, III* “defendants is liable for the misconduct alleged *Id*” that Kim established the claim under “*the thirteenth [fourteenth] times* defendants’ *fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B).

It is important to note that

On October 6, 2011, Defendants’ counsel Bardelli [*Kim II* defendant] “admit that Each defendants received Dkt # 1 Complaint [from the U.S. Marshals service on March 28, 2011] Exhibit K.

The U.S. Sixth Court of appeal finds that “we VACATE the district court’s judgment and REMAND to the district Court<sup>23</sup>. There was no justice in the Court room over seven (7) years “*the thirteenth [fourteenth] times* defendants’ *fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B). Kim has “establish liability.<sup>24</sup>” See *Allison Engine Co.*, 553 U.S. at 671-72. Kim requests demand 3729 (b)(2).

## COUNT II.

**Defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that “nothing in the record indicated that Kim actually served the defendants with the amended complaint” ( *Kim II*, Order, P.2, ECF No 34, Exhibit B)**

4. Kim alleges that Kim “pleads with particularity”<sup>25</sup> that “claim was submitted”<sup>26</sup> that Indifference *Kim I* and *Kim II* Judge Jonker “*the thirteenth*

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<sup>23</sup> Order of the United States Court of Appeals No. 16-2321

<sup>24</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court] remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>25</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>26</sup> “has pled facts which support a strong inference that a claim was submitted.” *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

*[fourteenth] times*” finds that

“ Six Circuit Court 12-1401[, 12-02407, 13-02354. (*Kim I*)]affirmed the Court’s decision and noted explicitly that “nothing in the record indicated that Kim actually served the defendants with the amended complaint” ( *Kim II*, Order, P.2, ECF No 34, Exhibit B). This is 100% a fraud.

,as to its truth the Court record appears that *Kim I*, docket 7 pageID 77

Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint. See. Exhibit J

Furthermore, evidence Defendants admitted that “Defendants admit only that their counsel received Docket no 6[Amended complaint] and “Defendants received Dkt # order[ granting Amended complaint](*Kim I* docket no. 108-1, PageID 740.). See. Exhibit K.

*Kim I*, ECF docket no. 7 Proof of Service ( *Kim I*, docket 7 pageID 77 and docket 52-3 Page ID279) appears. Kim actually served the Amended complaint to the defendants and future represent defendant’s attorney. Exhibit J

**Dated: March 25, 2011**

#### PROOF OF SERVICE

Motion for leave to file first Amended Complaint and Application for Declaratory and Injunctive Relief and Proof of Service to

Grand Valley State University, Thomas J. Haas, GVSU College of Education,  
Elaine C. Collins, Paula Lancaster, Olivia A. Williams, GVSU College of  
Community and Public Service, George Grant, and Lois smith Owens  
1 Campus Drive Allendale, MI 49401-9403

Interesting party (future represent defendant’s attorney:

Mr. Edward J. Bardelli Warner Norcross & Judd LLP  
900 Fifth Third Center 111 Lyon Street NW Grand Rapids, MI 49503-2487

Dated: March 25, 2011 GwanJun Kim

And

The U.S post office receipt appears (*Kim I*, ECF docket no. 7 Proof of Service ( *Kim I*, docket 7 pageID 77 and docket 52-3 Page ID279)

Kim actually served the Amended complaint to the defendants and future represent defendant's attorney.

See Dated: 3/25/11 07:54:03 AM.

1<sup>st</sup> Large Env 1 \$ 2.24 (Grand Rapids MI 49503) for the Interesting party (future represent defendant's attorney)

1<sup>st</sup> Large Env 1 \$ 1.56 (Grand Rapids MI 49503) for the Court

1<sup>st</sup> Large Env 1 \$ 2.24 ( Allendale MI 49402) for the Defendant- Grand Valley State University.

And

Defendants' counsel Bardelli "admit that Defendants received Dkt # 6 Amended Complaint. Answer: "Defendants admit only that their counsel received Docket no 6[Amended complaint] See. Paragraph 23 Defendants' answers to Plaintiff's First Request for Admissions.( *Kim I*, ECF docket no.108 Attachment 1, ) See. Exhibit K.

That evidence that Kim actually served the Amended complaint to defendants and future represent defendant's attorney and "defendants is liable for the misconduct alleged *Id*"



Defendants had been *the thirteenth [fourteenth] times*<sup>27</sup>

“intentionally false, willfully blind to the truth”<sup>28</sup> *thirteenth [fourteenth] times*<sup>29</sup> and more than seven (7) years.

*Kim II*, and *Kim III* Defendant-Gregory M. Kilby(P68266) *solely*<sup>30</sup>

“*knowingly makes, statement material to a false or fraudulent claim.*” 31 U.S.C. §

3729(a)(1)(B) that On or about April 21, 2011, the *Kim I*, Defendants filed

“Defendants Opposition to Plaintiff’s Application for Entry of Default” that

“Plaintiff has not mailed a copy of the First Amended Complaint to Defendants’ counsel” (*Kim I*, ECF No. 14 p.2) Exhibit F.

*Kim II*, and *Kim III* Defendant- Edward J Bardelli (P53849) “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that On or about June 26, 2012, the Defendants filed Defendants’ Brief that

“Kim [the U.S. Marshals] did not serve a copy of the Summons or his [Kim] Amended Complaint on any defendants” (Case :12-1401 filed 06/26/2012 p. 20) Exhibit G

Defendants had been “intentionally false, willfully blind to the truth”<sup>31</sup> *thirteenth [fourteenth] times*” and order seven(7) years.

*Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279

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<sup>27</sup> *Kim II*, Defendants argued defendants’ motion to dismiss that “This is the thirteenth times this that Kim has brought before the Court the issue (*Kim II*, ECF No. 32 p.2).

<sup>28</sup> See. The elements of fraud on the court include conduct: 1) on the part of an officer of the court; 2) that is directed at the judicial machinery itself; 3) that is **intentionally false, wilfully blind to the truth**, or is in reckless disregard for the truth; 4) that is a positive averment or a concealment when one is under a duty to disclose; and 5) that **deceives the court**. See *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993).

<sup>29</sup> Defendants argued that “This is the thirteenth times this that Kim has brought before the Court the issue of whether the defendants in *Kim v. Grand Valley State University et al.*, NO 1:11-cv-233(*Kim I*)”. See. Defendants’ Motion to dismiss (*Kim II*) p.1.

<sup>30</sup> DR 7-105(a) of the ABA Model Code of Professional Responsibility prohibited threats of criminal prosecution in order to gain an advantage in a civil matter, stating:(A) A lawyer shall not present, participate in presenting, or threaten to present **criminal charges solely** to obtain an advantage in a civil matter

<sup>31</sup> See. The elements of fraud on the court include conduct: 1) on the part of an officer of the court; 2) that is directed at the judicial machinery itself; 3) that is **intentionally false, wilfully blind to the truth**, or is in reckless disregard for the truth; 4) that is a positive averment or a concealment when one is under a duty to disclose; and 5) that **deceives the court**. See *Demjanjuk v. Petrovsky*, 10 F.3d 338, 348 (6th Cir. 1993).

appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint. See. Exhibit J

*Kim II* defendants' counsels, Kristina M. Araya(P74507) "*knowingly makes, statement material to a false*" 31 U.S.C. § 3729(a)(1)(B)that on April 27, 2016, Defendants Brief that

"Plaintiff [the U.S. Marshals service] has not yet defendants with a copy of the summons his original complaint or First Amended complaint ( Exhibit F p4)

*Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint. See. Exhibit J

Additionally, It is important to note that

On October 6, 2011, *Kim I* Defendants' counsel Bardelli [*Kim II* defendant]"admit paragraph 22and 23that defendants received the Amended Complaint (*Kim I* docket no. 108-1, PageID 740.) See. Exhibit K.

The U.S. Sixth Court of appeal "VACATE[ed]the district court's judgment and REMAND to the district Court"<sup>32</sup>.Because the Court record appears *Kim I*, ECF docket no. 7 Proof of Service , the Court granted the motion to Amended docket no 8 and the U.S post office receipt appears ( *Kim I*, docket no. 46-2, 52-3, 60-2) and "Defendants admit only that their counsel received Docket no 6[Amended complaint]"<sup>33</sup> that Kim actually served the Amended complaint to defendants and

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<sup>32</sup> Order of the United States Court of Appeals No. 16-2321

<sup>33</sup> See Paragraph 23 Defendants' answers to Plaintiff's First Request for Admissions.( *Kim I*, ECF docket no.108 Attachment 1 Exhibit A. )

future represent defendant's attorney. This is a Chronic fraud. There is no justice in the Court room "*the thirteenth [fourteenth] times* and over Seven(7) years, Kim has "establish liability. <sup>34</sup>" See *Allison Engine Co.*, 553 U.S. at 671-72. Kim sets forth request justifies relief Kim requests demand 3729 (b)(2).

## II. *Kim I* Defendants filed Motion to dismiss

### COUNT III.

***Kim I,II and Kim II defendants knowingly makes, fraudulent claim.*** 31 U.S.C. § 3729(a)(1)(B) that *Kim I, Kim II* Chief Judge Jonker was not follows Fed. R. Civ. P. 12(b)(7)

5. Kim alleges that Kim "pleads with particularity"<sup>35</sup> that Defendants "*knowingly makes, fraudulent claim.*" 31 U.S.C. § 3729(a)(1)(B) that "claim was submitted"<sup>36</sup> **Indifference** on August 19, 2016 the Judge Jonker order that

"Ultimately the Court granted the Kim I defendants' Motion to dismiss and entered judgment in favor of those defendants and granted Mr. Kim (Kim I, ECF No. 193, 194.) The Six circuit court affirmed the Court's decision and noted explicitly that "nothing in the record indicated that Kim actuary served the defendants the defendants with the amended complaint (Exhibit B p.2).

,as to its truth

(1) *Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint. Exhibit J.

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<sup>34</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains "too attenuated to establish liability." See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>35</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>36</sup> "has pled facts which support a strong inference that a claim was submitted." *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

“Defendants admit only that their counsel received Docket no 6[Amended complaint]<sup>37</sup> that Kim actually served the Amended complaint to defendants and future represent defendant’s attorney.(Exhibit K *Kim I* ECF No. 108-1 PageID. 740 )

**(2). *Kim I* and *Kim II* Chief Judge Jonker was not follows Fed. R. Civ. P. 12(b)(7)**

Judge Jonker had been adversely rulings granted *Kim I* defendants’ Motion to dismiss. The Fed. R. Civ. P. 12(b)(7) requires that judge jonker must denied the *Kim I* defendants because *A motion*[August 10, 2011( docket no 62)]*asserting any of these defenses must be made before pleading*[June 3, 2011(docket no 38)] *if a responsive pleading is allowed.* Fed. R. Civ. P. 12(b)(7).In this case the judge Jonker had been maliciously granted *Kim I*, and *Kim II* Defendants’ Motion to dismiss.

Kim sets forth Judge Jonker and defendants had been “conspires to commit a violation” 31 U.S. Code § 3729 (a)(1)(C) that intentionally failure to NEVER make *thirteenth [fourteenth] times* any mention of the facts in its Opinion and Order; a right or wrong Kim’s argument; defendants do not have a requirement to file Motion for dismiss. Fed. R. Civ. P. 12(b)(7). The judge Jonker had been maliciously granted *Kim I*, and *Kim II* Defendants’ Motion to dismiss. There is no justice in the Court room “*the thirteenth [fourteenth] times* and over Seven(7) years *the thirteenth [fourteenth] times*.”

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<sup>37</sup> See Paragraph 23 Defendants’ answers to Plaintiff’s First Request for Admissions ( *Kim I*, ECF docket no.108 Attachment 1 Exhibit A. )

Kim has “establish liability.”<sup>38</sup> See *Allison Engine Co.*, 553 U.S. at 671-72. Kim requests demand 3729 (b)(2)

#### COUNT IV.

***Kim I, II and Kim II defendants knowingly makes, fraudulent claim.*** 31 U.S.C. § 3729(a)(1)(B) that Chief Judge Jonker dishonestly erred in adversely rulings that intentionally failure to make any mention of facts factual allegation, *Kim I*, Cause of Action I, II, III in its Opinion an Order. This is NOT “amply satisfied” (*Kim II*, ECF No. 220 p.3).

6. Kim alleges that Kim “pleads with particularity”<sup>39</sup> that Defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that “claim was submitted”<sup>40</sup> Indifference *the thirteenth [fourteenth] times*”<sup>41</sup> *Kim I* plaintiff has “a full and fair opportunity to litigate the issue in the prior proceeding” Id. All for factors are amply satisfied here.” (Order *Kim II*, ECF No. 34 p.3) , as to its truth the *Kim I* Judge Jonker was erred in adversely rulings that finds that intentionally failure to make any mention of facts factual allegation , *Kim I* Cause of Action I, II, III <sup>42</sup> in its Opinion an Order

Kim sets forth the judge Jonker had been maliciously granted *Kim I*, and *Kim II*

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<sup>38</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court] remains “too attenuated to establish liability.” See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>39</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>40</sup> “has pled facts which support a strong inference that a claim was submitted.” *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

<sup>41</sup> *Kim II*, Defendants argued defendants’ motion to dismiss that “This is the thirteenth times this that Kim has brought before the Court the issue (*Kim II*, ECF No. 32 p.2).

<sup>42</sup> **Count I.** The homosexual Defendant “refused to correct the miscalculation” the complaint indicates that The College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700 points grade of “C”. **Count II** GVSU refused complies with the GVSU Rule readmission application. **Count III.** GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

Defendants' Motion to dismiss. The U.S. Sixth Court of appeal "VACATE the district court's judgment and REMAND to the district Court"<sup>43</sup>.Tues, Judge Jonker was not act like a chief judge. There is no justice in the Court room "*the thirteenth [fourteenth] times* and over Seven(7) years. Kim has "establish liability. <sup>44</sup>" See *Allison Engine Co.*, 553 U.S. at 671-72.Kim requests relief on demand 3729 (b)(2)

### COUNT V.

***Kim I,IIand Kim II defendants knowingly makes, fraudulent claim.*** 31 U.S.C. § 3729(a)(1)(B)that Chief Judge Jonker dishonestly biases orders that Defendants received grant *Kim I* defendants' Motion for Taxation of Costs (docket no 197) amount of the 1,006.46.

7. Kim alleges that Kim "pleads with particularity"<sup>45</sup> that Defendants *knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.* 31 U.S.C. § 3729(a)(1)(B) "claim was submitted"<sup>46</sup>that the judge Jonker had been biases finds that Defendants received grant defendants' Motion for Taxation of Costs (docket no 197) amount of the 1,006.46. This evidence that "defendants are liable for the misconduct alleged *Id*". Kim sets forth the U.S. Sixth Court of appeal "VACATE the district court's

<sup>43</sup> Order of the United States Court of Appeals No. 16-2321

<sup>44</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains "too attenuated to establish liability." See *Allison Engine Co.*, 553 U.S. at 671-72

<sup>45</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>46</sup> "has pled facts which support a strong inference that a claim was submitted." *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

judgment and REMAND to the district Court<sup>47</sup>. There was no justice in the Court room “*the thirteenth [fourteenth] times* and over Seven(7) years.

### III. *Kim II*. Defendants filed Motion to dismiss

#### COUNT VI.

***Kim I,II* and *Kim II* defendants knowingly makes, fraudulent claim.” 31 U.S.C. § 3729(a)(1)(B) that All the factors [ COUNT I to V] are amply satisfied” (*Kim II*, ECF No. 220 p.3) Exhibit B**

8. Kim alleges that Kim “pleads with particularity”<sup>48</sup> that Defendants “*knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that “claim was submitted”<sup>49</sup> Indifference All the factors [ Cause of Action paragraph 1-8] are “a full and fair opportunity to litigate the issue in the prior proceeding” *Id.* All for factors are amply satisfied here.” (Order *Kim II*, ECF No. 34 p.3), as to its truth All the factors actually are NOT full and fair opportunity to litigate the issue in the prior proceeding” *Id.* All for factors are NOT amply satisfied here. The U.S. Sixth Court of appeal “VACATE the district court’s judgment and REMAND to the district Court.”<sup>50</sup>

9. The defendants “*knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.*” 31

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<sup>47</sup> Order of the United States Court of Appeals No. 16-2321

<sup>48</sup> See. *United States v. Cline*, 362 F.3d 343,348 (6<sup>th</sup> Cir. 2004)

<sup>49</sup> “has pled facts which support a strong inference that a claim was submitted.” *Prather*, 838 F.3d at 769 (quoting *chesbrough v. VPA, P.C.*, 655 F.3d 461, 471 (6<sup>th</sup> Cir. 2011))

<sup>50</sup> Order of the United States Court of Appeals No. 16-2321



U.S.C. § 3729(a)(1)(B) was made reckless

**COUNT I.** Indifference [*“Kim I defendants had not been serve”*(Order *Kim II*, ECF No. 34 p.2)] as to its truth” *Kim I* defendants had been serve, which is the U.S. Marshal *mailed*”the complaint and summons and to Grand Valley State University on March 28 , 2011 *See*. Exhibit A Exhibit A p 7, 10,13,16,19,22,25,28. but Defendants had NEVER been returned the USM Form-299 *Receipt of Summons* to the Court. To *See*, Exhibit C p.1, 8, 11,14, 17,20, 23, 26 and 6

**COUNT II.** Indifference [The *Kim II* Judge Jonker “*the thirteenth [fourteenth] times* concludes that

“ Six Circuit Court affirmed the Court’s decision and noted explicitly that “nothing in the record indicated that Kim actually served the defendants with the amended complaint” ( *Kim II*, Order, P.2, ECF No 34). This is 100% a fraud.

,as to its truth that the Jonker knows *the thirteenth [fourteenth] times* the Court record appears *Kim I*, ECF docket no. 7 Proof of Service , and the U.S post office receipt appears

Exhibit J. *Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint.

and “Defendants admit only that their counsel received Docket no 6[Amended complaint] <sup>51</sup> that Kim actually served the Amended complaint to defendants and future represent defendant’s attorney.

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<sup>51</sup> See Paragraph 23 Defendants’ answers to Plaintiff’s First Request for Admissions ( *Kim I*, ECF docket no.108 Attachment 1 Exhibit A. )



**COUNT III.** Indifference defendants had been so silent of the The judge Jonker was not follows the Rule Fed. R. Civ. P. 12(b)(7).

as to its truth” as that the judge Jonker was not follows the Fed. R. Civ. P. 12(b)(7) the Rule requires that judge jonker must denied the *Kim I* defendants because *A motion asserting any of these defenses must be* judge jonker must denied because The Fed. R. Civ. P. 12(b)(7) requires that *A motion*[August 10, 2011( docket no 62)]*asserting any of these defenses must be made before pleading*[June 3, 2011(docket no 38)] *if a responsive pleading is allowed*”. Fed. R. Civ. P. 12(b)(7). The judge Jonker was not follows the Rule Fed. R. Civ. P. 12(b)(7).

**COUNT IV.** Indifference Judge Jonker intentionally failure to make any mention of facts factual allegation, *Kim I*, Cause of Action I, II, III <sup>52</sup> in its Opinion an Order is, “fair opportunity to litigate the issue in the prior proceeding *id* All the factors are amply satisfied” (*Kim II*, ECF No. 220 p.3)

as to its truth, Chief Judge Jonker dishonestly erred in adversely rulings that intentionally failure to make any mention of facts factual allegation, *Kim I*, Cause of Action I, II, III <sup>53</sup> in its Opinion an Order.

**COUNT V.** Indifference “fair opportunity to litigate the issue in the prior

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<sup>52</sup> **Count I.** The homosexual Defendants “refused to correct the miscalculation” the complaint indicates that The College of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. **Count II** GVSU refused complies with the GVSU Rule readmission application. **Count III.** GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

<sup>53</sup> **Count I.** The homosexual Defendants “refused to correct the miscalculation” the complaint indicates that The College of Education Grand Valley State University had independently calculated  $700+304=600$  points and granted grade of “D” and The Grand Valley State University independently calculated  $700+304=700$  points grade of “C”. **Count II** GVSU refused complies with the GVSU Rule readmission application. **Count III.** GVSU refused the lesbian- Black -Owens-defendant’s corruption hearing.

proceeding *id* All the factors are amply satisfied” (*Kim II*, ECF No. 220 p.3), as to its truth Chief Judge Jonker dishonestly biases orders that Defendants received grant defendants’ Motion for Taxation of Costs (docket no 197) amount of the 1,006.46.

**COUNT VI.** Indifference “fair opportunity to litigate the issue in the prior proceeding *id* All the factors are amply satisfied” (*Kim II*, ECF No. 220 p.3), as to its truth, Chief Judge Jonker dishonestly and All the factors [ COUNT I to V] are NOT amply satisfied” (*Kim II*, ECF No. 220 p.3) This evidence that this is *Kim I* and *Kim II* and *Kim III* Defendants “*knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B)

10. The *Kim I, II* and, *III*, plaintiff was relied on the  
The defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. §  
3729(a)(1)(B) paragraph 9 cause of action COUNT I to VI.

11. The *Kim I, II* and, *III*, Plaintiff has suffered compensable injury  
resulting from the defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. §  
3729(a)(1)(B) paragraph 9 cause of action COUNT I to VI.

12. The plaintiff was relied on the defendants “*knowingly makes, fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B) that suffered compensable injury  
result from the COUNT I to VI.

13. In August 2012 Defendants, four homosexual women<sup>54</sup>, obtained defendants a grant Motion to dismiss in this case based on the 62<sup>55</sup>, as made before<sup>56</sup> 38<sup>57</sup>, which is defendants' motion to dismiss (docket no 62) was not "must made before pleading" Fed. R. Civ. P. 12(b)(7) , [docket no. 38 defendants answered the complaint] which is Defendants do not have a requirement to file motion to dismiss. But the subjects ten (10) judges were *solely*<sup>58</sup> granted Defendants' Motion to dismiss. The subjects judges were not follow the Rule Fed. R. Civ. P. 12(b)(7) "must made before pleading"

14. Furthermore, Magistrate Hugh W. Brenneman Jr, was remedy defects of justice or he has engaged in misconduct that Defendants' Motion to dismiss, when the Nine(9) defendants<sup>59</sup> "refused to correct the miscalculation"<sup>60</sup> "and "refused to follow the Grand Valley University (their)Rules<sup>61</sup>" are not enough factual basis for plaintiff's claim as a matter of law United States. Also, the subject

<sup>54</sup> Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens

<sup>55</sup> Defendants' Motion to dismiss

<sup>56</sup> "A motion asserting any of these defenses must be made before pleading if a responsive pleading is allowed. If a pleading sets out a claim for relief that does not require a responsive pleading, an opposing party may assert at trial any defense to that claim. No defense or objection is waived by joining it with one or more other defenses or objections in a responsive pleading or in a motion." Fed. R. Civ. P. 12(b)(7)

<sup>57</sup> Answer to Complaint

<sup>58</sup> DR 7-105(a) of the ABA Model Code of Professional Responsibility prohibited threats of criminal prosecution in order to gain an advantage in a civil matter, stating:(A) A lawyer shall not present, participate in presenting, or threaten to present criminal charges solely to obtain an advantage in a civil matter.

<sup>59</sup> Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>60</sup> Count I Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of "D" and The Grand Valley State University independently calculated 700+304=700points grade of "C", because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abdd,7.

<sup>61</sup> Count II. ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

Count III Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl.at ¶¶6, 7,8,12

Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens

Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service

Nine Judges agree to Magistrate Hugh W. Brenneman Jr's remedy defects of justice.

15. Upon information and belief, plaintiff had specifically injured denied Application for entry default and granted Defendants' Motion to dismiss.

16. The Cause of alleges paragraph 3 to 15 that Defendants<sup>62</sup> made tort and made several defendants "*knowingly makes, fraudulent claim.*" 31 U.S.C. § 3729(a)(1)(B) paragraph 9 cause of action COUNT I to VI about its ability to complete the duty that it had made

**Count I** Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of "D" and The Grand Valley State University independently calculated 700+304=700points grade of "C", because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abddd,7.

**Count II.** ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

**Count III** Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl.at ¶¶6, 7,8,12

Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service.

17. Plaintiff seeking to recover for economic loss due to defendants' alleged

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<sup>62</sup> Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

negligent misrepresentations “must prove that duty of care by demonstrating an intimate nexus between them.” *Griesi v. Atl. Gen. Hop. Corp.* 360 Md. 1, 12-13 (2000). See. also *Baltimore County v. Cigna Healthcare*, 238 F. App’x914, 922 (4<sup>th</sup> Cir. 2007) (citing *Griesi*, 756 A.2d 548, 553)

18. Plaintiff alleges herein by this reference as though more fully set forth in the allegation contained in paragraphs 3 through 17 herein.

19. The complaint alleges that plaintiff has established allege each of the elements of intentional misrepresentation with the level of specificity required by Fed. R. Civ. P. 9(b).

(1) the defendant made a false representation to the Plaintiff; (2) the falsity was either known to defendant or the representation was made with reckless indifference as to its truth; (3) the misrepresentation was made for the purpose of defrauding plaintiff; (4) the plaintiff relied on the misrepresentation and [had] the right to rely on it; and (5) the plaintiff suffered compensable injury resulting from the misrepresentation.

*Jenkins v. PBG, Inc.*, F. Supp.2d 593, 597 (D. Md. 2003). Also, because intentional misrepresentation is a form of fraud, the plaintiff must plead the circumstances of alleged misrepresentation with the specificity required by Fed. R. Civ. P. 9(b) This includes “the time, place , and contents of the false representation, as well as the identity of the person making the misrepresentation and what he obtained thereby” *Harrison v. Westinghouse Savannah River Co.*, 176 F. 3d 776, 784 (4<sup>th</sup> Cir. 1999) (citing CHARLES ALAN WRIGHT & ARTHUR R. MILLER, 5FED. PRAC. &

PROC. CIV. § 1297, at 590 (2d ed. 1990). Rule 9(b) allows a plaintiff to plead elements of knowledge and intent “generally” though the allegations must still meet the ordinary plausibility standard required of all pleadings. *See. Mayfield v. National Ass’n for Stock Car Auto Racing, Inc.*, 674 F. 3d 369, 377 (4<sup>th</sup> Cir. 2012).  
Prac. & Proc. C

20. First, plaintiff alleges that On or about May 18, 2011 defendant<sup>63</sup> made a false representation as paragraph 9 Count I to VI

Next Second, and third elements of an intentional misrepresentation claim, i.e. that Defendants know that statement was false and that it made the statement with the intent to defraud.

Finally, Plaintiff clearly alleges that it relied on the alleged misrepresentation, This establishes the fourth and fifth elements of an intentional misrepresentation claim.

21. When defendants<sup>64</sup> through their respective fraud made representation to Plaintiff that Defendants<sup>65</sup> have know them to be false, and representation were made with the intent to defraud and deceive Plaintiff, and with

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<sup>63</sup> Defendant Edward J Bardelli (P53849) Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>64</sup>.Defendant Gregory M. Kilby(P68266) Edward J Bardelli (P53849)Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>65</sup> Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

the intent to induct

The *Kim I* and *Kim II* Judge Jonker

the United State District Court Western Michigan case # 1:11-cv-00233, # 1:16-cv-00309-PLM-PJG and United States Court of Appeal for the Six Circuit 12-01401, 12-02407, 13-02354.

to deny or affirm or So silent that denied of plaintiff's Application for entry of default and default Judgment. .

22 In reliance upon these fraud representations

23. There was nothing that plaintiff to believe that Defendants were honestly in good faith. Plaintiff's reliance on the Defendants' fraud representations was justified

24. As. a proximate result of Defendants' fraud and deceit, and the facts alleged herein, plaintiff has been damaged in an amount according to proof at trail and for punitive damages as allowed by law.

25. In doing the acts herein alleged, Defendants acted fraudulently, willfully, maliciously, oppressively , *solely*<sup>66</sup>perjury<sup>67</sup>, "*knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.*" 31 U.S.C. § 3729(a)(1)(B)Plaintiff to unjust hardship, knowing that Defendants' conduct was damage to plaintiff. As a result of Defendants'

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<sup>66</sup> DR 7-105(a) of the ABA Model Code of Professional Responsibility prohibited threats of criminal prosecution in order to gain an advantage in a civil matter, stating:(A) A lawyer shall not present, participate in presenting, or threaten to present **criminal charges solely** to obtain an advantage in a civil matter.

<sup>67</sup> Perjury 18 U.S. Code §1621



conduct, Plaintiff is entitled to an “request or demand money” 31 U.S. Code § 3729 (b)(2)(A)

26. Plaintiff alleges herein by this reference as though more fully set forth the allegations contained in paragraph 1 through 25 herein.

27. When Defendants “*knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.*” 31 U.S.C. § 3729(a)(1)(B), cause of action **COUNT I to VI** deceive Court and with the intent to induce subject Judges to denied Plaintiff’s Application for entry default, default judgment.

28 Defendants<sup>68</sup> had a duty to disclose Cause of action, “to correct the miscalculation<sup>69</sup> “and “follow the Grand Valley University (their)Rules<sup>70</sup>” Defendants have knows that Defendants<sup>71</sup> had a duty to disclose Cause of action, “to correct the miscalculation<sup>72</sup> “and “follow the Grand Valley University (their)Rules<sup>73</sup>” Plaintiff was not received the services, and the service

<sup>68</sup> Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>69</sup> **Count I** Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700points grade of “C”, because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abedd, 7.

<sup>70</sup> **Count II** ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl. at ¶¶ 8, 8abc, 10.

**Count III** Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl. at ¶¶ 6, 7, 8, 12

Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens  
Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service

<sup>71</sup> Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>72</sup> **Count I** Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700points grade of “C”, because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abedd, 7.

<sup>73</sup> **Count II** ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants



promised to him.

29. When Defendants entered into the “refused to correct the miscalculation”<sup>74</sup> “and “refused to follow the Grand Valley University (their)Rules”<sup>75</sup> that they fact would damages \$5,000,000 each defendant.

30. *Kim III*, Plaintiff requests that Section 3729(a)(1)(B) imposes liability on one who [ Defendants *Kim I* and *Kim II* ]“knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim.”

Kim alleges evident<sup>76</sup>defendants made false or fraudulent statements; Cause of action the paragraph 9 cause of action COUNT I to VI in order to denied plaintiff’s Application for entry of default and default judgment, *Kim I* and *Kim II* granted defendants’ Motion to dismiss, there are allegations connecting these evident<sup>77</sup>statements to claim made to *Kim I* and *Kim II* Court therefore Kim established liability. Kim plead a 31 U.S.C. § 3729(a)(1)(B) claim because they

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must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

Count III Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl.at ¶¶6, 7,8,12  
Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens

Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service

<sup>74</sup> Count I Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700points grade of “C”, because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ ¶5abc, 6abddd,7.

<sup>75</sup> Count II. ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

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Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens

Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and Public Service

<sup>76</sup> The alleged connection must be evident. See *Allison Engine Co. v. U.S. ex rel. Sanders*,553 U.S. 662, 671–72 (2008)).

<sup>77</sup> The alleged connection must be evident. See *Allison Engine Co. v. U.S. ex rel. Sanders*,553 U.S. 662, 671–72 (2008)).

rely on a too-attenuated chain connecting alleged false statements to the submission of claims. *See Chesbrough*, 655 F.3d at 473.

32. Plaintiff is, therefore, entitled to relief under Title 28 App Federal Title Rule 9. Kim has “establish liability.”<sup>78</sup> *See Allison Engine Co.*, 553 U.S. at 671-72. Cause of action paragraph 9- A, B, C, D, E, F.

33. The United State District Court Western Michigan case # 1:11-cv-00233,(*Kim I*), 1:16-cv-00309-PLM-PJG (*Kim II*) and United States Court of Appeal for the Six Circuit 12-1401, 12-02407, and 13-02354(*Kim I*) The *Kim I* and *Kim II*

Chief Judge Jonker belied by defendants seven (7) years *the thirteenth [fourteenth] times*”<sup>79</sup> the defendants made him a sick.

34. The Sixth Circuit Case no 16-2321 Ordered that on December 22, 2017“we VACATE the district court’s judgment and REMAND to the district court

WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, as follows:

1. Defendants <sup>80</sup>violated Title 28 App Federal Title Rule 9. Federal Rules of Civil Procedure each defendant.

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<sup>78</sup> Allegedly false statement made by defendants. Thus, the connection between false statement and claim submitted to government[ Court]remains “too attenuated to establish liability.” *See Allison Engine Co.*, 553 U.S. at 671-72

<sup>79</sup> *Kim II*, Defendants argued defendants’ motion to dismiss that “This is the thirteenth times this that Kim has brought before the Court the issue (*Kim II*, ECF No. 32 p.2 ).

<sup>80</sup> Defendant Gregory M. Kilby(P68266) Edward J Bardelli (P53849)Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

2. For “request or demand money” 31 U.S. Code § 3729 (b)(2)(A) that in the amount of \$5,000,000.00 plus interest at legal rate, each defendant or request \$55,000,000.00 total and “special damages sustained as a result of the discrimination[ *Kim I* ], including litigation costs and reasonable attorneys’ fees”.3730 (h)(2) of the

At the United States Court of Appeals for Sixth Circuit No 16-2321,13-2354, 12-2407, 12-1401 and 16-2321.The United States Court of the District of Michigan at Grand Rapids docket number 1:16-cv-00309( *Kim II*) and 1:11-CV-00233(*Kim I*).

justifies relief because of Chief Judge Jonker belied by defendants and refusal to disqualify himself and the manifest Seven years(7) injustice in the decision *thirteenth [fourteenth] times*”<sup>81</sup> and any other relief for the conspiracy and Chronic fraud and For punitive damages as allowed by law.

3. Plaintiff prays for *Kim I*, default judgment against nine defendants<sup>82</sup> or judgment NOT “refused to correct the miscalculation”<sup>83</sup> Master in education, TESOL (Teaching English to Speakers of Other Languages) Program and NOT “refused to follow the Grand Valley University (their)Rules”<sup>84</sup>

<sup>81</sup> *Kim II*, Defendants argued defendants’ motion to dismiss that “This is the thirteenth times this that Kim has brought before the Court the issue (*Kim II*, ECF No. 32 p.2).

<sup>82</sup> Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University , College of Community and Public Service; Tomas J. Haas; Elaine C. Collins; Paula Lancaster; Olivia A Williams; and Lois Smith Owens.

<sup>83</sup> Count I Three lesbian and a gay Defendants were refused, the school record suggests that correctly calculation his Ed 635grades, 700 point pulse 304point is 1004 points (700+304=1004) The defendants ; the College of Education Grand Valley State University had independently calculated 700+304=600 points and granted grade of “D” and The Grand Valley State University independently calculated 700+304=700points grade of “C”, because his is not lesbians, or gay Muslim, black, white, or he is an Korean-American. Amended Compl. at ¶¶ 5abc, 6abcd, 7.

<sup>84</sup> Count II ; Defendants Collins, Haas refused complies with the GVSU Rule readmission application. The GVSU Rule that the defendants must accept readmission application from one year academic probation. The defendants were not comply the Rule because his is not lesbians, Muslim, black, white, or Muslim. or Korean-American. Amended Compl.at ¶¶ 8,8abc,10.

Count III Defendants was refused the Defendant Owens-black lesbian Corruption Hearing Amended Compl.at ¶¶6, 7,8,12

Thomas J. Haas, Elaine C. Collins, Paula Lancaster, Olivia A. Williams, George Grant, and Lois smith Owens

Grand Valley State University; Grand Valley State University, College of Education; Grand Valley State University, College of community and

4. For reasonable Pro Se' fees in amount to be determined at trial;
5. For such other and further relief as the Court may deem proper.

Respectfully submitted,

**DEMAND FOR JURY TRIAL**

Plaintiff hereby requests a jury trial.

Dated: January 11, 2018



GwanJun Kim

360 East Tuttle Rd Lot 54

Ionia, MI 48846

(616)902-4344

## EXHIBITS

Exhibit A On December 22, 2017 the Six Circuit Court Case No. 16-2321 that “we VACATE the district court’s judgment and REMAND to the district court [of Michigan] to dismiss this case for lack of subject-matter jurisdiction”

Exhibit B The United States district Court Western District Court Western District of Michigan case no. 1:16-cv-309 Order.

Exhibit C. The U.S. Marshals Record indicated that the U.S. Marshal Christine Elmy (b)(7)(C) actually mailed eighteenth(18)of the USM Form-299 *Receipt of Summons* to nine (9)Defendants.

Exhibit D. The Court record appears that the Clerk’s office issued Summons to all defendants on Marsh 25, 2011. Fifty eight (58) days later, on May 18, 2011, and eighty four (84days) later June 16, 2011, the U.S. Marshals mailed the *Receipt of Summons* to nine(9) defendants.

Exhibit E. The U.S. Marshals indicated that “Name of Marshals Service personal [U.S. Marshal Christine Elmy (b)(7)(C)]and third party [*Kim II* defendant Edward J. Bardelli ] have been deleted” the Exhibit C /or and D

Exhibit F Defendants Opposition to Plaintiff’s Application for Entry of Default that “[March 28, 2011] Plaintiff [the U.S Marshals service] has not served any Defendant with copy of the Summons, his original Complaint” (*Kim I*, ECF No. 14 p.2)

Exhibit G On June 26, 2012 Appellees’ Brief that

“[March 28, 2011] Kim [the U.S Marshals service] did not serve the Summons or a copy of his Complaint on any Defendants” (Case :12-1401 filed 06/26/2012 p. 40).

Exhibit H On April 27,2016 *Kim II* Brief in Support of Motion to dismiss that

“there “is no evidence that [Marsh 28, 2011] defendants were served prior to [the ]filing of [the] additional application” and there was no basis for the Clerk’s Office to enter either a default or a default judgment against any defendants” (*Kim II* Dkt. 1-5, PageID. 34-35)” ( Case no 1:16-cv-00309-RJJ-PJG, ECF No 21

PageID 76-77).

Exhibit I On August 25, 2017 *Kim II* Appellees' counsel, Conor B. Dugan "*knowingly statement material to a false* 31 U.S.C. § 3729(a)(1)(B) that **Indifference** "there "is no evidence that [Marsh 28, 2011]defendants were served prior to filing of [the] additional application" and there was no basis for the Clerk's Office to enter either a default or a default judgment against any defendants" (id. at 2, Pg.ID 35.)" Appellees' Brief Case :16-2321 filed 08/25/2017 p.19.

Exhibit J. *Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint.

Exhibit K. Defendants admitted that defendants received the Amended Complaint (*Kim I* docket no. 108-1, PageID 740.)

## Exhibit A

On December 22, 2017 The U.S. Six circuit Case no 16-2321 ordered that

“we VACATE the district court’s judgment and REMAND to the district court to dismiss this case for lack of subject-matter jurisdiction”

No. 16-2321

ON APPEAL FROM THE UNITED  
STATES DISTRICT COURT FOR  
THE WESTERN DISTRICT OF  
MICHIGAN

In 2011, Kim filed an action pursuant to 42 U.S.C. § 1983 and Title VI of the Civil Rights Act of 1964 against Grand Valley State University (GVSU), the GVSU College of Education, the GVSU College of Community and Public Service, and several GVSU administrators and professors. *Kim v. Grand Valley State Univ.*, No. 1:11-cv-233 (W.D. Mich.) (*Kim I*). Kim filed numerous requests for entry of default and default judgment against the defendants. The district court denied Kim's requests on the basis that the defendants were never served with the amended complaint and filed a timely answer after receiving requests for waiver of service. The district court subsequently dismissed Kim's § 1983 and Title VI claims for



No. 16-2321

- 2 -

failure to state a claim upon which relief can be granted. On appeal, this court affirmed the district court's judgment, including the denial of Kim's default motions. *Kim v. Grand Valley State Univ.*, No. 12-1401 (6th Cir. Feb. 11, 2013). Kim filed motions for relief from judgment pursuant to Federal Rule of Civil Procedure 60, asserting in relevant part that the defendants acted fraudulently when they claimed to have filed a timely answer to his amended complaint. The district court denied Kim's motions, and this court affirmed. *Kim v. Grand Valley State Univ.*, No. 13-2354 (6th Cir. Apr. 29, 2014); *Kim v. Grand Valley State Univ.*, No. 12-2407 (6th Cir. Sept. 11, 2013).

In 2016, Kim filed the instant action against the same defendants named in *Kim I* as well as their attorneys Edward J. Bardelli and Gregory M. Kilby. Claiming negligent and intentional misrepresentation, Kim alleged that the defendants made false representations regarding service in *Kim I*. The defendants moved to dismiss Kim's complaint and to impose sanctions. The district court granted the defendants' motion, concluding that collateral estoppel barred Kim's claims, and placed Kim on restricted filing status. This timely appeal followed.

"[T]his Court has 'an independent obligation to determine whether subject-matter jurisdiction exists, even in the absence of a challenge from any party.'" *Freeland v. Liberty Mut. Fire Ins. Co.*, 632 F.3d 250, 252 (6th Cir. 2011) (quoting *Arbaugh v. Y & H Corp.*, 546 U.S. 500, 514 (2006)); see *Campanella v. Commerce Exch. Bank*, 137 F.3d 885, 890 (6th Cir. 1998) ("[I]t is beyond question that federal courts have a continuing obligation to inquire into the basis of subject-matter jurisdiction to satisfy themselves that jurisdiction to entertain an action exists."). "[I]f jurisdiction is lacking, dismissal is mandatory." *Campanella*, 137 F.3d at 890 (citing Fed. R. Civ. P. 12(h)(3)).

In their brief, the defendants assert that the district court had subject-matter jurisdiction over this action under 28 U.S.C. § 1331, which provides for federal-question jurisdiction when the plaintiff "pleads a colorable claim 'arising under' the Constitution or laws of the United States." *Arbaugh*, 546 U.S. at 513. Kim asserted two causes of action in his complaint: negligent misrepresentation and intentional misrepresentation. These are state common-law claims. Kim alleged that the defendants violated Federal Rule of Civil Procedure 9(b), which

No. 16-2321

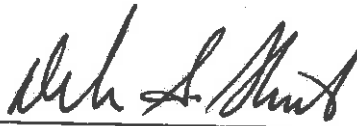
- 3 -

provides that a party alleging fraud or mistake “must state with particularity the circumstances constituting fraud or mistake.” Rule 9(b) is a pleading requirement; it does not create a federal cause of action for fraud. In footnotes, Kim cited the criminal statute for perjury, 18 U.S.C. § 1621, which does not create a private right of action. See *Cent. Bank of Denver, N.A. v. First Interstate Bank of Denver, N.A.*, 511 U.S. 164, 190 (1994) (“We have been quite reluctant to infer a private right of action from a criminal prohibition alone . . .”). Kim also cited 28 U.S.C. § 351(a) in a footnote; that statute provides the procedure for filing a complaint of judicial misconduct. On appeal, Kim references the False Claims Act, 31 U.S.C. § 3729 et seq., but failed to mention that act in his complaint. See *United States v. Cline*, 362 F.3d 343, 348 (6th Cir. 2004) (“Generally, an appellant cannot raise a claim before the appellate court that was not raised below.”). Because Kim failed to plead a claim arising under federal law in his complaint, the district court lacked federal-question jurisdiction.

Pursuant to 28 U.S.C. § 1332, the court has subject-matter jurisdiction when the plaintiff “presents a claim between parties of diverse citizenship that exceeds the required jurisdictional amount.” *Arbaugh*, 546 U.S. at 513. Diversity of citizenship “exists only when no plaintiff and no defendant are citizens of the same state.” *Jerome-Duncan, Inc. v. Auto-By-Tel, L.L.C.*, 176 F.3d 904, 907 (6th Cir. 1999). Because Kim and most of the defendants are citizens of Michigan, the district court also lacked diversity jurisdiction.

Accordingly, we **VACATE** the district court’s judgment and **REMAND** to the district court to dismiss this case for lack of subject-matter jurisdiction.

ENTERED BY ORDER OF THE COURT



Deborah S. Hunt, Clerk

## Exhibit B

The United States district Court Western District Court Western District of  
Michigan case no. 1:16-cv-309 Order.

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GWANJUN KIM,

Plaintiff,

v.

GRAND VALLEY STATE UNIVERSITY,  
et al.,

Defendants.

CASE NO. 1:16-CV-309

HON. ROBERT J. JONKER

ORDER

This matter is before the Court on Defendants' Motion to Dismiss (ECF No. 20). In his Complaint (docket # 1), Plaintiff reiterates allegations and arguments he made repeatedly and unsuccessfully in an earlier lawsuit, *Kim v. Grand Valley State University et al.*, No. 1:11-CV-233 ("Kim I"). Fundamentally, Plaintiff contends that in Kim I the Court mistakenly denied his motions for entry of default based on what he describes as false information provided by the defendants and their legal counsel in that case.<sup>1</sup> Plaintiff pursued this contention throughout the course of Kim I, filing a series of motions for default and sanctions, all of which the Court denied. (See Kim I, ECF No. 48 and ECF No. 166.) Eventually, after denying no fewer than eight such motions, the Court warned Plaintiff that the "[f]iling of future motions for either an entry of default or for a[n] entry of

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<sup>1</sup>Plaintiff first moved for default in April 2011. (Kim I, ECF No. 11.) The Kim I defendants objected, explaining that they had never been served. (Kim I, ECF No. 14.) The Court denied Plaintiff's first four motions for default in June 2011, finding no record evidence that defendants had been served before Plaintiff requested default and that defendants' response was timely. (Kim I, ECF No. 48.) Plaintiff continues to insist – as he did in Kim I – that defendants actually had been served and that any representation to the contrary was false.

a default judgment may result in sanctions assessed against plaintiff.” (Kim I, ECF No. 166, PageID.1134.)

Ultimately, the Court granted the Kim I defendants’ motion to dismiss and entered judgment in favor of those defendants and against Mr. Kim. (Kim I, ECF No.193, 194.) The Sixth Circuit affirmed the Court’s decision and noted explicitly that “nothing in the record indicates that Kim actually served the defendants with the amended complaint. Their answer – which waived service – was therefore timely. . . . [T]he district court did not abuse its discretion when it denied Kim’s motions [for default judgment].” (Kim I, ECF No. 217, PageID.1501.) While his appeal was pending, Plaintiff filed a Rule 60 motion making the same assertions about default. (Kim I, ECF No. 202.) The Court denied the motion, and the Sixth Circuit affirmed the denial. (Kim I, ECF No. 209, ECF No. 233.)

The lawsuit now before the Court centers on the very same issues Kim I already decided: whether the Kim I defendants were properly served before Mr. Kim moved for entry of default, and whether counsel for the Kim I defendants falsely informed the Court that the Kim I defendants had not been served. There is absolutely no basis for the relief Plaintiff seeks. To the contrary, the issues he raises have been fully litigated. Collateral estoppel bars Plaintiff from pursuing the claims again. See *N.A.A.C.P., Detroit Branch v. Detroit Police Officers Ass’n* (DPOA), 821 F.2d 328, 330 (6th Cir. 1987) (“[O]nce a court has decided an issue of fact or law necessary to its judgment, that decision may preclude re-litigation of the issue in a suit on a different cause of action involving a party to the first case.”)(quotation marks omitted). Collateral estoppel applies where four requirements are satisfied: “(1) the precise issue raised in the present case must have been raised and actually litigated in the prior proceeding; (2) determination of the issue must have been necessary to the outcome of

the prior proceeding; (3) the prior proceeding must have resulted in a final judgment on the merits; and (4) the party against whom estoppel is sought must have had a full and fair opportunity to litigate the issue in the prior proceeding.” *Id.* All four factors are amply satisfied here.

The Court has inherent power to impose sanctions for conduct that abuses the judicial process. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 43 (1991). Plaintiff’s continued pursuit of issues already decided amounts to such an abuse. To deter future frivolous filings and avoid needless litigation burden on defendants, the Court places Plaintiff on Restricted Filing status and directs that any Judicial Officer reviewing an application from Plaintiff to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1) may grant such an application only after first determining that the complaint survives screening under the standards of 28 U.S.C. § 1915(e)(2). No defendant named in any such complaint shall have an obligation to respond unless and until the Court authorizes service of the complaint on that defendant and sets a deadline for response. To facilitate effective screening, the Court directs that any future cases filed by Plaintiff be assigned to the undersigned under the related case rule of the Court.

The Court notes that Defendants are prevailing parties in this case and may request costs as provided in 28 U.S.C. § 1920 and FED. R. CIV. P. 54(d)(1).

ACCORDINGLY, IT IS ORDERED:

1. Defendants’ Motion to Dismiss (docket # 20) is GRANTED to the extent consistent with this Order and DENIED in all other respects.
2. The Clerk is directed to place Plaintiff on Restricted Filing status.
3. Any Judicial Officer reviewing an application from Plaintiff to proceed in forma pauperis under 28 U.S.C. § 1915(a)(1) may grant such an application only after first

determining that the complaint survives screening under the standards of 28 U.S.C. § 1915(e)(2). No defendant named in any such complaint shall have an obligation to respond unless and until the Court authorizes service of the complaint on that defendant and sets a deadline for response.

4. Any future cases filed by Plaintiff shall be assigned to the undersigned under the related case rule of the Court.

Dated: August 19, 2016

/s/ Robert J. Jonker  
ROBERT J. JONKER  
CHIEF UNITED STATES DISTRICT JUDGE

## Exhibit C

The U.S. Marshals Record indicated that the U.S. Marshal Christine Elmy (b)(7)(C) actually mailed eighteenth(18)of the USM Form-299 *Receipt of Summons* to nine (9)Defendants.





**U.S. Department of Justice**

**United States Marshals Service**

*Office of General Counsel*

CS 4

Washington, DC 20530-1000

August 23, 2016

GwanJun Kim  
360 E. Tuttle Rd., Lot 54  
Ionia, MI 48846

**Re: Freedom of Information Act Request No. 2016USMS30258**

**Subject: Proof of Receipt of Summons & Complaint was sent to  
defendants in Case no. 1:11-CV-233.**

Dear GwanJun Kim:

This is in response to your Freedom of Information/Privacy Act (FOIA/PA) request for records maintained by the United States Marshals Service (USMS) that pertain to the above mentioned subject.

A search for responsive records was conducted by the United States Marshals Service and a total of 26 pages responsive to your request were located. After carefully reviewing the pages responsive to your request, we have determined that 2 of these pages are appropriate for release to you in full, and 24 pages are appropriate for release in part pursuant to 5 U.S.C. § 552 (b)(7)(C).

Exemption (b)(7)(C) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties. Exemption 5 concerns pre-decisional information, including attorney work-product and attorney-client material, reflective of the deliberative process and contained in inter-agency or intra-agency correspondence which is not routinely available to a private party in litigation with an agency.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Please note that OIP is in the process of transitioning from its current eFOIA portal to the portal on FOIAonline. Please visit the link above for instructions for submitting an appeal electronically. Your appeal must be postmarked or electronically transmitted within 60 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked Freedom of Information Act Appeal.

Sincerely,



/s/ Angela Chappelle Brooks, for

William E. Bordley

Associate General Counsel/FOIPA Officer  
Office of General Counsel

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL.  
United States District Court  
for the  
Western District of MichiganTO: Grand Valley State Univ.  
College of Community  
1 Campus Drive  
Allendale, MI 49401

Civil Action, File Number 1:11-CV-233

GwanJum Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(c)(1) of the Federal Rules of Civil Procedure, and Michigan State Law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return copies 1 and 2 of this form to the sender within 21 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return copies 1 and 2 of this form, you (or the party on whose behalf you are being served) must answer the complaint within 21 days for private defendants and/or 60 days for Federal defendants. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

5/18/11

Date of Signature

(b) (7)(C)

Signature (USMS Official)

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ.\*

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

JUNE 3, 2011

Date of Signature

\* College of Community

Copy 1 - Clerk of Court

Copy 2 - United States Marshals Service

Copy 3 - Addressee

Copy 4 - USMS District Suspense

USM Form 299  
Rev. 05/10  
Automated 10/03

USM-HQ-11-011 Rev. 2/01

3

U.S. Department of Justice  
United States Marshals Service



**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

Thomas J. Hase

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

COPY

(b) (7)(C)

06/16/2011

Date of Signature

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW, Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids, MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ.

Relationship to Entity/Authority to Receive

US Mail - June 17, 2011

Service of Process

Date of Signature

Copy 1 - Clerk of Court

Copy 2 - United States Marshals Service

Copy 3 - Addressee

Copy 4 - USMS District Suspense

USM Form 299  
Rev. 05/10  
Automated 10/03

4

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/17/11☒ Returned executed Waiver to Clerk of Court, Date: 6/29/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_☐ Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (Insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☒ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ Notified USMS unable to provide alternate address, Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_

5



U.S. Department of Justice  
United States Marshals Service



**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Hagg

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

06/16/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.Relationship to Entity/Authority to ReceiveCity, State and Zip CodeService of ProcessSignatureDate of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District Suspense

USM Form-299  
Rev. 05/10  
Automated 10/03

6

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233GiwanJun Kim

v.

Thomas J. Haas

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.Relationship to Entity/Authority to ReceiveCity, State and Zip CodeService of ProcessSignatureDate of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Ante-notated 10/03

7

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.  
Thomas J. Hans

The enclosed summons and complaint are served pursuant to Rule 4(c)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 - 5/18/11  
Date of Signature

COP

(b) (7)(C)

Signature (USMS Official)

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for

(b) (7)(C)

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011

Date of Signature

- Copy 1 - Clerk of Court
- Copy 2 - United States Marshals Service
- Copy 3 - Addressee
- Copy 4 - USMS District Suspense

USM Form-299  
Rev. 05/10  
Automated 10/03

8

USM-INTL-11-01-001



**PROCESS TRACKING SHEET-WAIVERS**Case Number: 1:11-CV-233Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/6/11☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_☐ Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (Insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☐ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ Notified USMS unable to provide alternate address, Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

Thomas J. Haas

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.

Relationship to Entity/Authority to Receive

City, State and Zip Code

Service of Process

Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-399  
Rev. 03/10  
Automated 10/03

10

Fill out front and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of MichiganTO: Grand Valley State University  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233Gwan Jun Kim

v.

Thomas J. Haas

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COPIES

(b) (7)(C)

03/28/2011 5/18/11  
Date of Signature

Signature (USMS Official)

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111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and Zip CodeSignature [Signature]Counsel for Grand Valley State Univ.  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of Signature

USM-11111111 6PM 2:00

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 03/10  
Automated 10/03

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233 Defendant Name: Grand Valley State UniversityUSMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11 Executed Waiver Due Date: 7/28/11Executed Waiver returned to USMS, Date: \_\_\_\_\_Returned executed Waiver to Clerk of Court, Date: \_\_\_\_\_No response to Waiver by due date"Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_Summons received by USMS, Date: \_\_\_\_\_Created USM-285, Date: \_\_\_\_\_Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_Summons personally served by USMS, Date: \_\_\_\_\_Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_Waiver returned unexecuted, Date: \_\_\_\_\_Unable to identify defendant (insufficient information, i.e. lack of full name)Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_Individual is not at address listed on waiverAlternate address providedEmailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking SheetNo alternate address providedRequested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_MDOC provided alternate address, Date: \_\_\_\_\_Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking SheetNotified MDOC cannot provide alternate address, Date: \_\_\_\_\_Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_USMS provided alternate address, Date: \_\_\_\_\_Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking SheetNotified USMS unable to provide alternate address, Date: \_\_\_\_\_Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_

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U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of MichiganTO: Grand Valley State University  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

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03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

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Street Number and Street Name or P.O. Box No.

Relationship to Entity/Authority to Receive

City, State and Zip Code

Service of Process

Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

13



Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

Thomas J. Hans

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03/28/2011 5/18/11  
Date of Signature

COP

(b) (7)(C)

Signature (USMS Official)

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111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and Zip Code

Signature

Counsel for (b) (7)(C)  
Relationship to Party/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 03/10  
Antismoke 16403

14

USM Form-299 Rev. 03/10

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/6/11☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service,  
Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court,  
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Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☐ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet)☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address,  
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Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New  
Tracking Sheet☐ Notified USMS unable to provide alternate address,

Date: \_\_\_\_\_

☐ Returned Unexecuted Waiver to Clerk of Court,

Date: \_\_\_\_\_

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233Gwanjun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.

Relationship to Entity/Authority to Receive

City, State and Zip Code

Service of Process

Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 03/10  
Automated 10/03

16



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U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

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03/28/2011 5/18/11  
Date of Signature

(b) (7)(C)

Signature (USMS Official)

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

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111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for (b) (7)(C)

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Authorized 10/03

17

RECEIVED BY 5-51

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233 Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11 Executed Waiver Due Date: 7/28/11

☒ Executed Waiver returned to USMS, Date: 6/6/11  
☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11

☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_☐ Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (Insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☐ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ Notified USMS unable to provide alternate address, Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ \_\_\_\_\_

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U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.

Relationship to Entity/Authority to Receive

City, State and Zip Code

Service of Process

Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

19

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

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(b) (7)(C)

03/28/2011 5:11/11  
Date of Signature

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids, MI 49503

City, State and Zip Code

Signature

Counsel for (b) (7)(C)

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-209  
Rev. 09/10  
Automated 10/03

20

USM-JWT-11-001 Doc 2-50



PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/6/11☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service,  
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Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver,  
Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New  
Tracking Sheet☐ Notified USMS unable to provide alternate address,  
Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court,  
Date: \_\_\_\_\_

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U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

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Date of Signature

(b) (7)(C)

Signature (USMS Official)

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Relationship to Entity/Authority to Receive

City, State and Zip Code

Service of Process

Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

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U.S. Department of Justice  
United States Marshals ServiceNOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL  
United States District Court  
for the  
Western District of MichiganTO: Grand Valley State Univ.  
College of Education  
1 Campus Drive  
Allendale, MI 49401

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

Thomas J. Haas

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111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ. \*

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011

Date of Signature

\* College of Education

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automatic 10/03

23

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233 Defendant Name: Grand Valley State Univ.USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11 Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/6/11☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_☐ Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☐ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ Notified USMS unable to provide alternate address, Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_



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United States District Court  
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Western District of MichiganTO: Grand Valley State Univ.  
College of Education  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haus

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Signature (USMS Official)

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City, State and Zip Code

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Signature

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
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Copy 4 - USMS District SuspenseUSM Form 399  
Rev. 05/10  
Automated 10/03

25

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TO:

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Civil Action, File Number 1:11-CV-233

GwanJun Kim

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City, State and Zip Code

Signature

Counsel for (b) (7)(C)  
Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

26

USM-10111000 (Rev. 2011)

PROCESS TRACKING SHEET-WAIVERSCase Number: 1:11-CV-233Defendant Name: (b) (7)(C)USMS Received Waiver from Clerk of Court, Date: 03/28/111<sup>st</sup> Mailing of Waiver, Date: 5/18/11Executed Waiver Due Date: 7/28/11☒ Executed Waiver returned to USMS, Date: 6/6/11☒ Returned executed Waiver to Clerk of Court, Date: 6/15/11☐ No response to Waiver by due date☐ "Report of USMS of Unexecuted Waiver of Service" filed with Clerk of Court, Date: \_\_\_\_\_☐ Summons received by USMS, Date: \_\_\_\_\_☐ Created USM-285, Date: \_\_\_\_\_☐ Forwarded USM-285 & Summons to SDUSM-USMS for assignment for personal service, Date: \_\_\_\_\_☐ Summons personally served by USMS, Date: \_\_\_\_\_☐ Returned executed Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Unexecuted Summons and USM-285 returned by USMS, Date: \_\_\_\_\_☐ Returned unexecuted Summons and USM-285 to Clerk of Court, Date: \_\_\_\_\_☐ Waiver returned unexecuted, Date: \_\_\_\_\_☐ Unable to identify defendant (insufficient information, i.e. lack of full name)☐ Returned unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_☐ Individual is not at address listed on waiver☐ Alternate address provided☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ No alternate address provided☐ Requested Court Order for MDOC to provide alternate address, Date: \_\_\_\_\_☐ MDOC provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to alternate address - Initiate new Tracking Sheet)☐ Notified MDOC cannot provide alternate address, Date: \_\_\_\_\_☐ Requested SDUSM-USMS to provide alternate address, Date: \_\_\_\_\_☐ USMS provided alternate address, Date: \_\_\_\_\_☐ Emailed Clerk of Court requesting 2<sup>nd</sup> 3<sup>rd</sup> Waiver, Date: \_\_\_\_\_☐ 2<sup>nd</sup> 3<sup>rd</sup> Mailing to Alternate Address - Initiate New Tracking Sheet☐ Notified USMS unable to provide alternate address, Date: \_\_\_\_\_☐ Returned Unexecuted Waiver to Clerk of Court, Date: \_\_\_\_\_

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of Michigan

TO:

(b) (7)(C)

Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

**YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES.** If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return copies 1 and 2 of this form to the sender within 21 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return copies 1 and 2 of this form, you (or the party on whose behalf you are being served) must answer the complaint within 21 days for private defendants and/or 60 days for Federal defendants. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011

Date of Signature

(b) (7)(C)

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

Street Number and Street Name or P.O. Box No.Relationship to Entity/Authority to ReceiveCity, State and Zip CodeService of ProcessSignatureDate of Signature

Copy 1 - Clerk of Court

Copy 2 - United States Marshals Service

Copy 3 - Addressee

Copy 4 - USMS District Suspense

USM Form-209  
Rev. 05/10  
Automated 10/03

28

## Exhibit D

The Court record appears that the Clerk's office issued Summons to all defendants on March 25, 2011. Fifty eight (58) days later, on May 18, 2011, and eighty four (84days) later June 16, 2011, the U.S. Marshals mailed the *Receipt of Summons* to nine(9) defendants.

AO 440 (Rev. 03-07) Summons in a Civil Action - MWD (Rev. 10-95)

# SUMMONS IN A CIVIL ACTION

## UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MICHIGAN

1:18-cv-233  
Robert J. Jonker  
U.S. District Judge

Case No. 18-00107

Case No.  
Hon.v.  
Thomas J. HennesTO:  
ADDRESS:

188-100\*LINE204417

A lawsuit has been filed against you.

YOU ARE HEREBY SUMMONED and required to serve upon plaintiff, an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure within 21 days after service of this summons on you (not counting the day you received it). If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You must also file your answer or motion with the Court, whose address is indicated below.

Plaintiff's Attorney's Address  
Thomas J. Hennes  
300 East Tenth Rd Lot 64  
Lansing, MI 48206

TRACEY CORDER, CLERK OF COURT

By: K. Saylor MAR 25 2011

Dated:

☒ 300 East Tenth  
100 Michigan St., 2nd  
Lansing, MI 48206

☐ 300 East Tenth  
100 Michigan St., 2nd  
Lansing, MI 48206

☐ 300 East Tenth  
100 Michigan St., 2nd  
Lansing, MI 48206

☐ 300 East Tenth  
100 Michigan St., 2nd  
Lansing, MI 48206

## PROOF OF SERVICE

This summons for Lea Smith Owens was received by me on 3/25/11
☐ I personally served the summons on the individual at 100 Michigan St., 2nd on 3/25/11
☐ I left the summons at the individual's residence or usual place of abode with \_\_\_\_\_, a person of suitable age and discretion who resides there, on 3/25/11, and mailed a copy to the individual's last known address.

☐ I served the summons on \_\_\_\_\_, who is designated by law to accept service of process on behalf of \_\_\_\_\_, on 3/25/11.

☐ I returned the summons unaccepted because \_\_\_\_\_.

☐ Other \_\_\_\_\_.
My fee was \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services for a total of \$ \_\_\_\_\_.

I declare under the penalty of perjury that this information is true.

Date: 3/25/11 \_\_\_\_\_Additional information regarding attempted service, etc.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_



Fill out form and print 4 copies. Sign and date all copies and

U.S. Department of Justice  
United States Marshals ServiceFILED - GR  
June 16, 2011 11:57 AM  
TRACEY CORDS CLERK  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGANBY aid / MD, 6/16 SCANNED BY

## NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL

United States District Court  
for the  
Western District of MichiganTO: Grand Valley State University  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return copies 1 and 2 of this form to the sender within 21 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return copies 1 and 2 of this form, you (or the party on whose behalf you are being served) must answer the complaint within 21 days for private defendants and/or 60 days for Federal defendants. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 5/18/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=WR  
US\_email=chriseelmy@usdcj.gov, c=US  
Date: 2011.05.18 12:38:37 -0400

Signature (USMS Official)

## ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Raids MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ.  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District Suspense

USM-WR11JUN 6PM 2:43

USM Form-299  
Rev. 05/10  
Automated 10/03

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service

J/B

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**United States District Court  
for the  
Western District of MichiganTO: Grand Valley State Univ.  
College of Community  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 5/18/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=WI  
MI, email=chris.elmy@usdoj.gov, c=US  
Date: 2011.06.18 12:29:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and Zip Code[Signature]  
SignatureCounsel for Grand Valley State Univ.\*  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

June 3, 2011

Date of Signature

\*College of Community

USM-MI 11-JUN 6PM 2:50

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**United States District Court  
for the  
Western District of MichiganTO: George Grant  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 5/18/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=WM  
Email=chris.elmy@usdoj.gov, c=US  
Date: 2011.05.18 12:38:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and Zip CodeSignature [Signature]Counsel for George Grant  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011  
Service of ProcessDate of Signature June 3, 2011

- Copy 1 - Clerk of Court
- 
- Copy 2 - United States Marshals Service
- 
- Copy 3 - Addressee
- 
- Copy 4 - USMS District Suspense

USM Form-299  
Rev. 05/10  
Automated 10/03

USM-WMI\*11JUN 6PM 2:58

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service

J/8

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of MichiganTO: Olivia A. Williams  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date:

03/28/2011 5/18/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=WI  
MI, email=chris.elmy@usdoj.gov, c=US  
Date: 2011.05.18 12:38:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and ZIP Code[Signature]  
SignatureCounsel for Olivia A. Williams  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

June 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

USM-NOT1100M Exp 2:51



Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service

JLB

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of MichiganTO: Paula Lancaster  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(c)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES. If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 5/18/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, ou=USMS, ou=MI,  
email=christine.elmy@usdoj.gov, c=US  
Date: 2011.05.18 12:39:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for Paula Lancaster

Relationship to Entity/Authority to Receive

US Mail - JUNE 3, 2011

Service of Process

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

USM-WMI 11JUN 6PM 2:51

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service

jlb

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**United States District Court  
for the  
Western District of MichiganTO: Elaine C. Collins  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

~~03/28/2011~~ 5/13/11  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=WW  
MI, email=chris.elmy@usdoj.gov, c=US  
Date: 2011.05.18 12:39:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503  
City, State and Zip Code[Signature]  
SignatureCounsel for Elaine C. Collins  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

JUNE 3, 2011  
Date of SignatureCopy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 03/10  
Automated 10/03

USM-WMI 11 JUN 5PM 2:50



Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of MichiganTO: Thomas J. Haas  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233GwanJun Kim

v.

Thomas J. Haas

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

03/28/2011 5:11 PM  
Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=H/  
MI, email=chris.elmy@usdoj.gov, c=US  
Date: 2011.06.18 12:39:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for Thomas J. Haas

Relationship to Entity/Authority to Receive

US Mail - June 3, 2011

Service of Process

Date of Signature

- Copy 1 - Clerk of Court
- 
- Copy 2 - United States Marshals Service
- 
- Copy 3 - Addressee
- 
- Copy 4 - USMS District Suspense

USM Form-299  
Rev. 05/10  
Automated 10/03

USN-WMT\*11JUN 6PM 2:51

Fill out form and print 4 copies. Sign and date all copies and route as specified below.

U.S. Department of Justice  
United States Marshals Service

JLB

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**  
United States District Court  
for the  
Western District of MichiganTO: Grand Valley State Univ.  
College of Education  
1 Campus Drive  
Allendale, MI 49401Civil Action, File Number 1:11-CV-233Gwanjun Kim

v.

Thomas J. Haas

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I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

06/03/2011  
Date of Signature5/13/11

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=IW  
MI, email=chris.elmy@usdoj.gov, c=US  
Date: 2011.06.18 12:39:37 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW Ste. 900  
Street Number and Street Name or P.O. Box No.Grand Rapids MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ. \*  
Relationship to Entity/Authority to ReceiveUS Mail - June 3, 2011

Service of Process

Date of Signature

\* College of Education

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District SuspenseUSM Form-299  
Rev. 05/10  
Automated 10/03

USM-WMT11JUN 6PM 2:50

U.S. Department of Justice  
United States Marshals Service

FILED - GR

June 29, 2011 11:06 AM  
TRACEY CORDES, CLERK  
U.S. DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN



BY: mke / SCANNED BY: AUN/10-24

**NOTICE AND ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT BY MAIL**

United States District Court  
for the  
Western District of Michigan

USC-INT11 JUN29AM10:00

TO: Lois Smith Owens  
Warner Norcross & Judd, LLP  
900 Fifth Third Ctr  
111 Lyon St., NW  
Grand Rapids, MI 49503

Civil Action, File Number 1:11-CV-233

GwanJun Kim

v.

Thomas J. Hass

The enclosed summons and complaint are served pursuant to Rule 4(e)(1) of the Federal Rules of Civil Procedure, and Michigan State law.

You **MUST COMPLETE** the acknowledgment part of this form below, **AND RETURN COPIES 1 AND 2** to the sender within 21 days. An envelope has been enclosed for this purpose. Keep copy 3 for your records.

**YOU MUST SIGN AND DATE THE ACKNOWLEDGMENT ON ALL COPIES.** If you are served on behalf of a corporation, unincorporated association (including a partnership), or other entity, you must indicate under your signature your relationship to that entity. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return copies 1 and 2 of this form to the sender within 21 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return copies 1 and 2 of this form, you (or the party on whose behalf you are being served) must answer the complaint within 21 days for private defendants and/or 60 days for Federal defendants. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and Complaint By Mail was mailed on this date.

06/16/2011

Date of Signature

Christine Elmy

Digitally signed by Christine Elmy  
DN: cn=Christine Elmy, o=USMS, ou=W/  
MI email=chris.elmy@usdoj.gov, c=US  
Date: 2011.06.16 15:26:33 -0400

Signature (USMS Official)

**ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT**

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above captioned manner at:

111 Lyon St. NW, Ste. 900

Street Number and Street Name or P.O. Box No.

Grand Rapids, MI 49503

City, State and Zip Code

Signature

Counsel for Grand Valley State Univ.

Relationship to Entity/Authority to Receive

US Mail - June 17, 2011

Service of Process

June 17, 2011

Date of Signature

Copy 1 - Clerk of Court  
Copy 2 - United States Marshals Service  
Copy 3 - Addressee  
Copy 4 - USMS District Suspense

USM Form-299  
Rev. 05/10  
Automated 10/03

## Exhibit E

The U.S. Marshals indicated that “Name of Marshals Service personal [U.S. Marshal Christine Elmy (b)(7)(C)]and third party [*Kim H*]defendant Edward J. Bardelli ] have been deleted” the Exhibit C and/or D



U.S. Department of Justice  
United States Marshals Service  
*Office of General Counsel*

Washington, D.C. 20530-0001

DEC 18 2017

Mr. GwanJun Kim  
360 East Tuttle Rd., Lot 54  
Ionia, MI 48846

RE: Freedom of Information/Privacy Act Request No. 2018USMS32288  
Subject: Service of Process on March 28, 2011

Dear Mr. Kim:

The United States Marshals Service (USMS) is making a supplemental response to your Freedom of Information/Privacy Act (FOIA/PA) request for documentation that the USMS served the summons, and complaint to the defendant on March 28, 2011 in the case 1:11-cv-00233, and 1:16-CV-00309 -PLM-PJG, United States District Court for the Western District of Michigan.

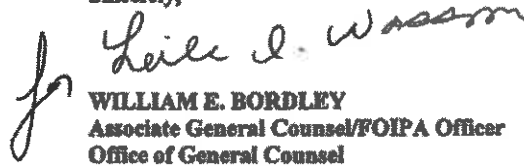
Pursuant to your request for additional information pertaining to 1:11-cv-00233 and 1:16-CV-00309-PLM,-PJG, be advised that court records are not USMS records. However, six additional pages were previously located and are released to you with this letter. Names of Marshals Service personnel and third parties have been deleted pursuant to exemption (b) (7) (C) of the Freedom of Information Act, 5 U.S.C. 552. Exemption 7(C) concerns records or information compiled for law enforcement purposes the release of which could reasonably be expected to constitute an unwarranted invasion of the personal privacy of third parties.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of Justice, Suite 11050, 1425 New York Avenue, NW, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://foiaonline.regulations.gov/foia/action/public/home.portal.html>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information/ Privacy Act Appeal."

You may contact William E. Bordley or our FOIA Public Liaison, Cynthia Castaneda, at the telephone number listed above for any further assistance and to discuss any aspect of your request.

Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, email at [ogis@nara.gov](mailto:ogis@nara.gov), telephone at 202-741-5770; toll free at 1-877-684-6448, or facsimile at 202-741-5769.

Sincerely,

A handwritten signature in dark ink, appearing to read "William E. Bordley". The signature is written in a cursive, flowing style. To the left of the signature is a large, stylized initial "W".

**WILLIAM E. BORDLEY**  
Associate General Counsel/FOIPA Officer  
Office of General Counsel



1:11-cv-233  
Robert J. Jonker  
U.S. District Judge

Case No. \_\_\_\_\_  
Flon. \_\_\_\_\_

**TO:**  
**ADDRESS:**

EQN-4NY-13823-1117

**Owner: JAMES E. PLANNETT  
380 East Tuttle Rd Lot 54  
Ionia, MI 48846**

### TRACY, George, Clerk of Court

By: A. K. Singh Date: MAR 25 2011

☐ 333 Federal Building  
335 W. Adams  
Lansing, MI 48203

This document for Lois Smith Green was received by me on 11/15/2011

☐ I left the documents at the individual's residence or usual place of abode with \_\_\_\_\_, a person of sobriety and discretion who resides there, on \_\_\_\_\_, and mailed a copy to the individual's last known address.

☐ I returned the summary-annotated figures.☐ Other results: \_\_\_\_\_

My fees are \$\_\_\_\_\_ for travel and \$\_\_\_\_\_ for services; for a total of \$\_\_\_\_\_.

**I declare under the penalty of perjury that this information is true.**

**Index**

Additional information regarding attempted service, etc.: \_\_\_\_\_

2/2/2019 10:00 AM

\_\_\_\_\_

UNITED STATES OF AMERICA  
UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

GWANJUN KIM,

Plaintiff,

Case No. 1:11-cv-233

v.

Hon. Robert J. Jonker

GRAND VALLEY STATE  
UNIVERSITY et al.

Defendant(s).

ORDER TO PROCEED IN FORMA PAUPERIS

IT IS ORDERED that plaintiff in the above-entitled proceeding may commence this action without prepayment of fees or costs or security therefor. Any pleadings herein served by the United States Marshal shall be at the expense of the United States government. All costs shall be reimbursed to the United States should the plaintiff prevail.

IT IS FURTHER ORDERED that plaintiff shall serve upon defendants or, if appearance has been entered by an attorney, upon the attorney, a copy of every further pleading or other document submitted for consideration by the Court. The plaintiff shall include with the original paper to be filed with the Clerk of the Court a certificate stating the date a true and correct copy of any document was mailed to defendants or the attorney(s). Any paper received by a District Judge or Magistrate Judge which has not been filed with the Clerk or which fails to include a certificate of service will be disregarded by the Court.

Dated: March 21, 2011

s. Hugh W. Brennan, Jr.  
HUGH W. BRENNAN, JR.  
United States Magistrate Judge

Certified as a True Copy  
By K. M. Miller  
Deputy Clerk  
U. S. District Court  
Western District of Michigan  
Date 3/25/11

Case 1:11-cv-00233-RJJ-HWYB Doc. 45 (Court only) Filed 03/25/11 Page 1 of 1 PageID#51

UNITED STATES GOVERNMENT

## memorandum

DATE 03/22/2011

MEMO TO

ATTN OF

Martha(ald)

SUBJECT:

GwanJun Kim

v. Grand Valley State

Case No. 1:11-cv-233

Re Magistrate Judge Brenneman

FILED - GR

March 25, 2011 11:30 AM

TRACEY CORDS, CLERK

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

By: [Signature] DATED BY: 3/25

The above case is a pro per - forma pauperis case. Would you kindly advise us below if we should issue the summons and give them to the U. S. Marshal for service?

YES, SERVE ☒

NO ☐

Dated: 3/25/11

[Signature]  
Hugh W. Brenneman

U.S. Magistrate Judge

Certified as a True Copy

By: [Signature]

U. S. District Court

Western Dist. of Michigan

Date: 3/25/11

9

Private - civil

2. CHECK (if appropriate)

☒ PAUPER  
☐ SEAMAN

3. COURT NUMBER

121-CV-233

RECEIPT AND DISBURSEMENT RE

[illegible]



704-544-34  
700 Fifth Third St  
111 Michigan Ave NW  
Grand Rapids MI 49503

EDWARD J. BARDELL  
616.752.7165  
Fax 616.227.2165  
ebarde@warnerj.com

June 3, 2011

United States Marshals Service  
Attn: (b) (7)(C)  
111 Michigan Ave NW  
Grand Rapids, MI 49503

Re: *Kim v. Grand Valley State University, et al.*, Case No. 1:11-cv-233

Dear Ms. Edmy:

I am authorized to receive service of the Summons and Complaint on behalf of all of the Defendants in the above-referenced litigation. The Defendants did not begin to receive copies of the Notice and Acknowledgment of Receipt of Summons and Complaint by Mail ("USM Form-299") until May 20, 2011. As requested on the USM Form-299's, I am returning signed USM Form-299's on behalf of the following Defendants in the above-referenced matter:

- Grand Valley State University;
- Grand Valley State University College of Community;
- Grand Valley State University College of Education;

(b) (7)(C)  
[Redacted]

6/15/11  
Jed...  
Ed...  
[Handwritten notes]

(b) (7)(C)  
[Redacted]

If you have any questions, please contact me.

Very truly yours,

Edward J. Bardelli

LJB/dlh  
Enc.  
452925-1

(b) (7)(C)  
[Redacted]



EDWARD J. BARDILLI

616.752.2165  
FAX 616.227.2165

ebardelli@wnj.com

June 20, 2011

United States Marshals Service  
Attn: (b) (7)(C)  
111 Michigan Ave NW  
Grand Rapids, MI 49503

U.S. MARSHALS SERVICE  
JUN 20 2011

Re: *Kim v. Grand Valley State University, et al.*, Case No. 1:11-cv-233

Dear (b) (7)(C):

I am authorized to receive service of the Summons and Complaint on behalf of Defendant  
(b) (7)(C) in the above-referenced litigation.  
If you have any questions, please contact me.

Very truly yours,

A handwritten signature in black ink, appearing to be 'E. Bardelli'.

Edward J. Bardelli

EJB/dlh  
Enc.  
5529026-1



## Exhibit F

Defendants Opposition to Plaintiff's Application for Entry of Default that "[March 28, 2011] Plaintiff [the U.S Marshals service] has not served any Defendant with copy of the Summons, his original Complaint" (*Kim I*, ECF No. 14 p.2)

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

---

GWANJUN KIM,

Plaintiff,

Case No. 1:11-cv-00233-RJJ-HWB

v.

GRAND VALLEY STATE UNIVERSITY,  
GRAND VALLEY STATE UNIVERSITY –  
COLLEGE OF EDUCATION, GRAND  
VALLEY STATE UNIVERSITY –  
COLLEGE OF COMMUNITY AND PUBLIC  
SERVICE, THOMAS J. HAAS, ELAINE C.  
COLLINS, PAULA LANCASTER, OLIVIA  
A. WILLIAMS, GEORGE GRANT, and LOIS  
SMITH OWENS,

Honorable Robert J. Jonker

Magistrate Judge Hugh W. Brenneman, Jr.

Defendants.

---

GwanJun Kim  
360 East Tuttle Road  
Lot 54  
Ionia, MI 48846  
616.902.4344  
[gwanjun@hotmail.com](mailto:gwanjun@hotmail.com)  
PRO SE

Edward J. Bardelli (P53849)  
Gregory M. Kilby (P68266)  
**WARNER NORCROSS & JUDD LLP**  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, MI 49503  
616.752.2000  
[ebardelli@wnj.com](mailto:ebardelli@wnj.com)  
[gkilby@wnj.com](mailto:gkilby@wnj.com)  
Attorneys for Defendants

COLLEGE  
VALLEY STATE UNIVERSITY

---

**DEFENDANTS' OPPOSITION TO PLAINTIFF'S  
APPLICATION FOR ENTRY OF DEFAULT**

---

**INTRODUCTION**

On April 15, 2011, Plaintiff applied to this Court for entry of default against all of the named Defendants. But Plaintiff has yet to serve any of the Defendants as required by the

Federal Rules of Civil Procedure. This Court should therefore deny Plaintiff's Application for Entry of Default.

#### FACTUAL BACKGROUND

Plaintiff filed his original Complaint on March 9, 2011. (Dkt. #1.) The Summons for Plaintiff's original Complaint was issued on March 25, 2011. (*See generally*, Dkt.) Plaintiff did not serve, in accordance with the Federal Rules of Civil Procedure, the Summons or a copy of his original Complaint on any of the Defendants. (*Id.*) Then, on March 28, 2011, Plaintiff sought leave of court to file his First Amended Complaint. (Dkt. #6.) This Court granted Plaintiff's motion and deemed his First Amended Complaint to be filed on April 1, 2011. (Dkt. #8, 9.) As with his original Complaint, Plaintiff has not yet served, in accordance with the applicable rules, a copy of the Summons or his First Amended Complaint on any of the Defendants. (*See generally*, Dkt.)

Less than a week later, on April 7, 2011, Plaintiff purported to commence discovery. (Dkt. #10.) Aware that Plaintiff was representing himself and likely unfamiliar with the service requirements as set forth in the Federal Rules of Civil Procedure, on April 11, 2011, Defendants' counsel reached out to Plaintiff by e-mail and agreed to accept service of the First Amended Complaint by either regular or electronic mail. (Exhibit A.) To date, Plaintiff has not mailed a copy of the First Amended Complaint to Defendants' counsel.

#### ARGUMENT

It is axiomatic that one cannot obtain entry of a default against a party that has not yet been served. *Murphy Bros. v. Michetti Pipe Stringing*, 526 U.S. 344, 350 (1999) ("In the absence of service of process (or waiver of service by the defendant), a court ordinarily may not exercise power over a party the complaint names as defendant."), citing *Omni Capital Int'l, Ltd.*

*v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987), and *Miss. Publ'g Corp. v. Murphree*, 326 U.S. 438, 444-45 (1946). The Sixth Circuit has been explicit: "there must be effective service of process on a defendant before an entry of default can be made." *Sandoval v. Bluegrass Regional Mental Health-Mental Retardation Board*, 2000 WL 1257040, \*5 (6th Cir. 2000), citing, 10A WRIGHT, MILLER & KANE, FED. PRAC. & PROC. CIV. 3d § 2682. Because Plaintiff has failed to properly serve any of the named Defendants in accordance with the Federal Rules of Civil Procedure, this Court must deny Plaintiff's Application for Entry of Default.

**I. PLAINTIFF HAS NOT PROPERLY SERVED HIS FIRST AMENDED COMPLAINT ON DEFENDANTS.**

Service upon an individual from whom a waiver has not been obtained and filed may be effected pursuant to the law of the state in which the district court is located, by delivering a copy of the summons and complaint to the individual personally, by leaving copies with an appropriate person residing at the defendant's usual place of abode or by delivering a copy of the summons and complaint to an agent authorized by appointment or law to receive service of process. FED. R. CIV. P. 4(e). Service upon a corporation, partnership, or association from whom a waiver has not been obtained and filed may be effected pursuant to the law of the state in which the district court is located, by delivering a copy of the summons and complaint to an officer, a managing or general agent, or any other agent authorized by appointment or by law to receive service of process and by also mailing a copy of each to the defendant. FED. R. CIV. P. 4(h). Michigan Court Rule 2.105 provides that process may be served on a resident or nonresident individual by:

(1) delivering a summons and a copy of the complaint to the defendant personally; or (2) sending a summons and a copy of the complaint by registered or certified mail, return receipt requested, and delivery restricted to the addressee. Service is made when the defendant

acknowledges receipt of the mail. A copy of the return receipt signed by the defendant must be attached to proof showing service under subrule (A)(2).

M.C.R. 2.105(A).

Plaintiff has not served any Defendant with a copy of the Summons, his original Complaint, or his First Amended Complaint according to *any* of the aforementioned methods. Moreover, even after Defendants' counsel agreed to accept service on behalf of Defendants by regular or electronic mail, Plaintiff never sent or e-mailed a copy of the Summons or the First Amended Complaint to Defendants' counsel. Indeed, in both Plaintiff's Application for Entry of Default and his affidavit in support, Plaintiff relies merely on this Court's *issuance* of the summons. (See Dkt. #11 at 1, Dkt. #12 at 1.) Because Plaintiff has not properly served Defendants with his Amended Complaint, he is not entitled to entry of the default requested in his application. *Moseley v. Faurecia Automotive Seating, Inc.*, No. 08-10130, 2008 WL 1925051, at \*3 (setting aside entry of default due to plaintiff's failure to effectuate service upon defendants.) Consequently, Plaintiff's Application for Entry of Default should be denied.

#### CONCLUSION

For the foregoing reasons, Defendants respectfully request that this Court deny Plaintiff's Application for Entry of Default.

Dated: April 19, 2011

/s/ Gregory M. Kilby

Edward J. Bardelli (P53849)

Gregory M. Kilby (P68266)

**WARNER NORCROSS & JUDD LLP**

900 Fifth Third Center

111 Lyon Street, N.W.

Grand Rapids, MI 49503

616.752.2000

[ebardelli@wnj.com](mailto:ebardelli@wnj.com)

[gkilby@wnj.com](mailto:gkilby@wnj.com)

Attorneys for Defendants

5424237-1

## Exhibit G

Exhibit G On June 26, 2012 at Six circuit Court Appellee's Brief that

“[March 28, 2011] *Kim I* plaintiff [the U.S Marshals service] did not serve the Summons or a copy of his Complaint on any Defendants” (Case :12-1401 filed 06/26/2012 p. 40).



No. 12-1401

---

UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

---

GWANJUN KIM

Plaintiff-Appellant

v.

GRAND VALLEY STATE UNIVERSITY, GRAND VALLEY STATE  
UNIVERSITY—COLLEGE OF EDUCATION, GRAND VALLEY STATE  
UNIVERSITY—COLLEGE OF COMMUNITY AND PUBLIC SERVICE,  
THOMAS J. HAAS, ELAINE C. COLLINS, PAULA LANCASTER, OLIVIA A.  
WILLIAMS, GEORGE GRANT, and LOIS SMITH OWENS.

Defendants-Appellees

---

On Appeal from the United States District Court  
for the Western District of Michigan  
Docket No. 1:11-cv-00233  
The Honorable Robert J. Jonker

---

**APPELLEES' BRIEF**

Edward J. Bardelli  
Gregory M. Kilby  
Warner Norcross & Judd LLP  
900 Fifth Third Center, 111 Lyon Street, N.W.  
Grand Rapids, Michigan 49503-2487  
Telephone: (616) 752-2000  
E-mail: [ebardelli@wnj.com](mailto:ebardelli@wnj.com)  
Attorneys for Defendants-Appellees

Dated: June 26, 2012

**II. The District Court Properly Denied Plaintiff's Repeated Requests to Enter a Default Judgment Against Defendants When Defendants Timely Answered the Complaint.**

Kim filed his original complaint on March 9, 2011. (R. 1, Compl., Pg. ID 1-47.) The Summons was issued on March 25, 2011. Kim did not serve the Summons or a copy of his Complaint on any Defendants. Then, on March 28, 2011, Kim sought leave to file his Amended Complaint. (R. 6, Mtn., Pg. ID 54-56.) The Court granted Kim's motion and deemed his Amended Complaint filed on April 1, 2011. (R. 8, Order, Pg. ID 78 and R. 9, Am. Compl., Pg. ID. 79-98.) As with his original Complaint, Kim did not serve a copy of the Summons or his Amended Complaint on any Defendants.

Aware that Kim was representing himself and likely unfamiliar with the service requirements as set forth in the Federal Rules of Civil Procedure, on April 11, 2011, Defendants' counsel reached out to Kim by e-mail and agreed to accept service of the Amended Complaint by either regular or electronic mail. (R. 20, Ex. A. to Resp. to Mtn. for Default, Pg. ID 127.) Kim, however, did not accept the invitation and never served the Amended Complaint on any Defendants or Defendants' counsel. Instead, apparently believing that the Summons provided to the U.S. Marshal's office constituted service, Kim improperly applied to the

### CONCLUSION AND REQUESTED RELIEF

For the foregoing reasons, Defendants respectfully request that the Court affirm the district court's decision.

Dated: June 26, 2012

s/ Edward J. Bardelli

Edward J. Bardelli

Gregory M. Kilby

Warner Norcross & Judd LLP

900 Fifth Third Center

111 Lyon Street, N.W.

Grand Rapids, Michigan 49503-2487

Telephone: (616) 752-2000

E-mail: [ebardelli@wnj.com](mailto:ebardelli@wnj.com)

Attorneys for Defendants-Appellees

## Exhibit H

On April 27, 2016 *Kim II* Brief in Support of Motion to dismiss that

“there “is no evidence that [Marsh 28, 2011] defendants were served prior to [the ]filing of [the] additional application” and there was no basis for the Clerk’s Office to enter either a default or a default judgment against any defendants” (*Kim II* Dkt. 1-5, PageID. 34-35)” ( Case no 1:16-cv-00309-RJJ-PJG, ECF No 21 PageID 76-77).

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

GWANJUN KIM,

Case No. 1:16-CV-309

Plaintiff,

Hon. Paul L. Maloney

v.

GRAND VALLEY STATE UNIVERSITY;  
THOMAS J. HAAS; GRAND VALLEY  
STATE UNIVERSITY, COLLEGE OF  
EDUCATION; ELAINE C. COLLINS;  
PAULA LANCASTER; OLIVIA A.  
WILLIAMS; GRAND VALLEY STATE  
UNIVERSITY, COLLEGE OF  
COMMUNITY AND PUBLIC SERVICE;  
GEPRGE GRAMT [sic]; LOIS SMITH  
OWENS; EDWARD J BARDELLI;  
GREGORY M. KILBY,

Defendant.

---

**BRIEF IN SUPPORT OF MOTION TO DISMISS**

## **II. Collateral Estoppel precludes Kim from relitigating his claims.**

Kim's complaint fails to state a "claim to relief that is plausible on its face" because it is based entirely on two issues that have already been resolved against him: (1) whether the *Kim I* defendants were served prior to his application for entry of default; and (2) whether counsel for the *Kim I* defendants made misrepresentations regarding service. The re-litigation of these issues is barred by collateral estoppel, and accordingly Mr. Kim's Complaint should be dismissed.

The doctrine of collateral estoppel (also known as "issue preclusion") dictates that "once a court has decided an issue of fact or law necessary to its judgment, that decision may preclude relitigation of the issue in a suit on a different cause of action involving a party to the first case." *N.A.A.C.P., Detroit Branch v. Detroit Police Officers Ass'n (DPOA)*, 821 F.2d 328, 330 (6th Cir. 1987)(citing *Allen v. McCurry*, 449 U.S. 90, 94, 101 S.Ct. 411, 414, 66 L.Ed.2d 308 (1980); and C. Wright, *Law of Federal Courts* 678-96 (4th ed. 1983)). Collateral estoppel applies where four requirements are met: "(1) the precise issue raised in the present case must have been raised and actually litigated in the prior proceeding; (2) determination of the issue must have been necessary to the outcome of the prior proceeding; (3) the prior proceeding must have resulted in a final judgment on the merits; and (4) the party against whom estoppel is sought must have had a full and fair opportunity to litigate the issue in the prior proceeding." *N.A.A.C.P., Detroit Branch*, 821 F.2d at 330.

First, the issue of whether the *Kim I* defendants were served with process has been actually litigated on at least twelve prior occasions. Each time, the Court has resolved the issue against Kim. One such Order, dated June 29, 2011, is attached as Exhibit 5 to the *Kim II* Complaint. The June 29, 2011 Order specifically finds that there "is no record that the Clerk's Office re-issued summonses to serve the amended complaint", "there is no evidence that



defendants were served prior to [the first application for default]”, there “is no evidence that defendants were served prior to the filing of [the] additional applications”, and “there was no basis for the Clerk’s Office to enter either a default or a default judgment against any defendant.” (Kim II Dkt. 1-5, PageID.34-35.)

Likewise, the allegation of misrepresentation regarding service has been litigated and resolved against Kim on numerous occasions. For example, on October 9, 2012, Judge Jonker found that “Plaintiff has not shown fraud, misrepresentation, or misconduct by an opposing party, let alone by clear and convincing evidence.” (Kim I, Dkt. 209, PageID.1483.) The Sixth Circuit agreed, finding “Kim’s allegation that the defendants fabricated an email that they presented to the court lacks merit.” (Ex. 2, CA 6 09/11/2013 Order on Case No. 12-2407 at 3.)

The remaining requirements for collateral estoppel are met as well. The litigation of these issues was necessary to the outcome of the proceeding because Kim asserted them as a basis for default, default judgment, and relief under Rule 60. (See e.g. Kim I Dkts. 11, 80, and 202, PageID.100-101, 492-498, 1435-1460.) The proceeding resulted in a final judgment on the merits, as the court found against Kim on these issues numerous times and ultimately granted the Kim I defendants’ motion to dismiss under Rule 12(b)(6). Lastly, Kim has undoubtedly had “a full and fair opportunity to litigate the issue” where he has raised the same issue on twelve separate occasions, including on appeal to the Sixth Circuit.

In sum, Kim’s Complaint is based entirely on issues that he is precluded from re-litigating under the doctrine of collateral estoppel. Accordingly, this Court should dismiss the Complaint and prevent further waste of the Defendants’ and this Court’s resources.

Dated: April 27, 2016

/s/ Kristina M. Araya

~~Edward J. Bardelli~~ (P53849)

Kristina M. Araya (P74507)

WARNER NORCROSS & JUDD LLP

900 Fifth Third Center

111 Lyon Street, N.W.

Grand Rapids, Michigan 49503-2487

616.752.2712

ebardelli@wnj.com

karaya@wnj.com

Attorney for Defendants

## Exhibit I

On August 25, 2017 *Kim II* Appellees' counsel, Conor B. Dugan "*knowingly statement material to a false* 31 U.S.C. § 3729(a)(1)(B) that **Indifference** "there "is no evidence that [Marsh 28, 2011]defendants were served prior to filing of [the] additional application" and there was no basis for the Clerk's Office to enter either a default or a default judgment against any defendants" (id. at 2, Pg.ID 35.)" Appellees' Brief Case :16-2321 filed 08/25/2017 p.19.

No. 16-2321

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UNITED STATES COURT OF APPEALS  
FOR THE SIXTH CIRCUIT

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GWANJUN KIM

Plaintiff-Appellant

v.

GRAND VALLEY STATE UNIVERSITY; GRAND VALLEY STATE  
UNIVERSITY, COLLEGE OF EDUCATION; GRAND VALLEY STATE  
UNIVERSITY, COLLEGE OF COMMUNITY AND PUBLIC SERVICE;  
THOMAS J. HAAS; ELAINE C. COLLINS; PAULA LANCASTER; OLIVIA A.  
WILLIAMS; GEORGE GRANT; LOIS SMITH OWENS; EDWARD J.  
BARDELLI, and GREGORY M. KILBY

Defendants-Appellees

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On Appeal from the United States District Court  
for the Western District of Michigan  
Docket No. 1:16-cv-00309  
The Honorable Robert J. Jonker

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**APPELLEES' BRIEF**

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Attorneys for Defendants-Appellees

Dated: August 25, 2017

there “is no evidence that defendants were served prior to the filing of [the] additional applications,” and “there was no basis for the Clerk’s Office to enter either a default or a default judgment against any defendant.” (*Id.* at 2, Pg.ID 35.)

This Court has already agreed. In its order affirming the district court’s dismissal of Kim’s complaint in *Kim I*, this Court held that “nothing in the record indicates that Kim actually served the defendants with the amended complaint. Their answer—which waived service—was therefore timely.” (*Kim I* R.217, Order 5, Pg.ID 1501.)

Likewise, Kim’s allegation of misrepresentation regarding service has been litigated and resolved against Kim on numerous occasions. For example, on October 9, 2012, the district court held that “Plaintiff has not shown fraud, misrepresentation, or misconduct by an opposing party, let alone by clear and convincing evidence.” (*Kim I*, R.209, Order 2, Pg.ID 1483.)

Again, this Court agreed. It held that “Kim’s allegation that the defendants fabricated an email that they presented to the court lacks merit.” (*Kim I* R.233, Order 3, Pg.ID 1728.) Further, it held that Kim’s “remaining general allegations of fraud underlying the defendants’ actions and the court’s decisions in the defendants’ favor merely restate arguments that the district court already rejected in dismissing his complaint and do not meet the standards of Rule 60(b)(3) or Rule 60(d)(3).” (*Id.*)

Furthermore, the district court correctly held that the remaining requirements for collateral estoppel were present. The litigation of these issues was necessary to the outcome of *Kim I* because Kim asserted them as a basis for default, default judgment, and relief under Rule 60. (*See, e.g., Kim I* R.11, Appl. for Default, Pg.ID 100-01; R.80, Mot. for Default J., Pg.ID 492-98; R.202, Mot. for Relief from J., Pg.ID 1435-60.) *Kim I* resulted in a final judgment on the merits, as the district court entered orders holding against Kim on these issues numerous times and ultimately granted the *Kim I* defendants' motion to dismiss under Rule 12(b)(6). Finally, Kim undoubtedly had "a full and fair opportunity to litigate the issue." Kim has raised the same issue on twelve separate occasions, including on appeal to the Sixth Circuit.

Indeed, that is why this Court has already held that "[t]here is no arguable basis to challenge the district court's determination" that the four requirements of collateral estoppel were "satisfied" in this case. (5/3/2017 Order Den. Mot. for IFP 3.)

In sum, the trial court did not err. The *Kim II* complaint is based entirely on issues that Kim was barred from relitigating by collateral estoppel. Accordingly, this Court should affirm the district court.



### CONCLUSION AND REQUESTED RELIEF

The district court and this Court have already determined that this appeal is frivolous. Defendants respectfully request that this Court affirm the district court. Further, because Kim's appeal is frivolous, this Court should hold that he is subject to sanctions under Federal Rule of Appellate Procedure 38.

Dated: August 25, 2017

s/Conor B. Dugan

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Matthew T. Nelson

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Attorneys for Defendants-Appellees

## Exhibit J

*Kim I*, docket 7 pageID 77 Proof of Service, docket 52-3 Page ID279 appears, and the U.S post office receipt appears ( *Kim I*, docket , 52-3 Page ID 281) that *Kim I* actually served the defendants with the amended complaint.

**FILED - GR**

March 28, 2011 2:43 PM

TRACEY CORDES, CLERK

U.S. DISTRICT COURT

WESTERN DISTRICT OF MICHIGAN

BY SPS / SCANNED BY SPS / 3/28

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**THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN**

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**GWANJUN KIM**

**Case No. 1:11 cv233**

**HON. ROBERT J. JONKER**

*Plaintiff,*

**Vs**

**GRAND VALLEY STATE UNIVERSITY, et al.,**

*Defendants,*

---

**PROOF OF SERVICE**

---

On the date below, I filed with Court and sent by first class mail a copy of a :  
MOTION FOR LEAVE TO FILE FIRST AMENDED COMPLAINT AND  
APPLICATION FOR DECLARATORY AND INJUNCTIVE RELIEF, and  
Proof of Service to

Grand Valley State University, Thomas J. Haas, GVSU College of Education, Elaine C.  
Collins, Paula Lancaster, Olivia A. Williams, GVSU College of Community and Public  
Service, George Grant, Lois Smith Owens.

1 Campus Drive  
Allendale, MI 49401-9403

Interesting party (future represent defendants' attorney):

Mr. Edward J. Bardelli  
Warner Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street NW  
Grand Rapids, MI 49503-2487

I declare that the statements above are true to the best of my information  
knowledge, and belief.

Dated: March 25, 2011

  
GwanJun Kim

---

THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN

---

GWANJUN KIM

Case No. 1:11 cv233  
HON. ROBERT J. JONKER

*Plaintiff,*

Vs

GRAND VALLEY STATE UNIVERSITY, et al.,

*Defendants,*

---

**PROOF OF SERVICE**

---

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Collins, Paula Lancaster, Olivia A. Williams, GVSU College of Community and Public  
Service, George Grant, Lois Smith Owens.

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Interested party (future represent defendants' attorney):  
Mr. Edward J. Bardelli  
Warner Norcross & Judd LLP  
900 Fifth Third Center  
111 Lyon Street NW  
Grand Rapids, MI 49503-2487

I declare that the statements above are true to the best of my information  
knowledge, and belief.

Dated: March 25, 2011

  
GwanJun Kim



S. State Rd.  
Ionia, MI - # 303  
(616) 527-9200 meijer.com

The Meijer Team appreciates your business  
03/25/11  
Your fast and friendly checkout was  
provided by ELLEN

70882097029	METER	5.36
	SUBTOTAL	5.36
	TOTAL TAX	.00
	TOTAL	5.36
CHARGE VISA/MC/DIS	TENDER	3.77
XXXXXXXXXXXX6095		
CASH	TENDER	1.59

NUMBER OF ITEMS 1

See Service Desk or Meijer.com for  
promotional and sale item return details.



A03030UNE02LP95

Tx:16 Op:1027134 Tm:140 St:303 07:57:00

=====

MEIJER STORE #303  
2770 S State Rd  
Ionia, MI, 48846-8472  
254710-8001

03/25/2011 07:54:03 AM

=====

03 ----- Sales Receipt -----

Product	Sale	Final
Description	Qty	Price

1st Large Env	1	\$2.24
---------------	---	--------

(Domestic)  
1 (GRAND RAPIDS, MI 49503)  
(Weight:0 Lb 8.20 Oz)

1st Large Env	1	\$1.56
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(Domestic)  
1 (GRAND RAPIDS, MI 49503)  
(Weight:0 Lb 4.45 Oz)

1st Large Env	1	\$1.56
---------------	---	--------

(Domestic)  
1 (ALLENDAL, MI 49401)  
(Weight:0 Lb 4.40 Oz)

Total	\$5.36
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Cash	\$5.36
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Thank you!

Bill #: 1-12367-1-434016-2

Check: 00000000

at ( ) on stamps and postage.

## Exhibit K

Defendants admitted that defendants received the Amended Complaint



Exhibit A

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

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GWANJUN KIM,

Plaintiff,

v

GRAND VALLEY STATE UNIVERSITY,  
GRAND VALLEY STATE UNIVERSITY –  
COLLEGE OF EDUCATION, GRAND  
VALLEY STATE UNIVERSITY –  
COLLEGE OF COMMUNITY AND PUBLIC  
SERVICE, THOMAS J. HAAS, ELAINE C.  
COLLINS, PAULA LANCASTER, OLIVIA  
A. WILLIAMS, GEORGE GRANT, and LOIS  
SMITH OWENS,

Defendants.

Case No. 1:11-cv-00233-RJJ-HWB

Honorable Robert J. Jonker

Magistrate Judge Hugh W. Brennehan, Jr.

---

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[gkilby@wnj.com](mailto:gkilby@wnj.com)  
Attorneys for Defendants

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**DEFENDANTS' ANSWERS TO PLAINTIFF'S FIRST REQUEST FOR ADMISSIONS**

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Defendants answer Plaintiff's First Requests for Admissions as follows:

1. Admit that Exhibits *id* 1-19, Exhibits 20 and 9 are same, Exhibits A-E (at Dkt 73) the all Documents in Possession or Control of Plaintiff and Defendants.

**ANSWER:** Defendants object to this Request for Admission because it is vague and ambiguous. Subject to and without waiving this objection, Defendants cannot truthfully admit or deny this Request for Admission because it is incomprehensible.

22. Admit that each Defendant received Dkt # 1 Complaint.

**ANSWER: Admitted.**

23. Admit that Defendants received Dkt # 6 Amended Complaint.

**ANSWER: Defendants admit only that their counsel received Docket No. 6. To the extent that this Request to Admit purports to seek any other admission, Defendants deny the remainder of this Request to Admit as untrue.**

24. Admit that Defendants received Dkt # 8 order.

**ANSWER: Defendants admit only that their counsel received Docket No. 8. To the extent that this Request to Admit purports to seek any other admission, Defendants deny the remainder of this Request to Admit as untrue.**

25. Admit that Defendants received Dkt # 10 First set of interrogatories and first request for production of documents (Entered: 04/15/2011).

**ANSWER: Defendants admit only that their counsel received Docket No. 10. To the extent that this Request to Admit purports to seek any other admission, Defendants deny the remainder of this Request to Admit as untrue.**

26. Admit that Defendants filed untimely answer to the amended complaint due to April 22, 2011.

**ANSWER: Denied as untrue.**

27. Admit that Defendants failure to appear Amended Complaint was willful because it was four (4) times served before, the Amended complain was answer due are patently insufficient to establish a reasonable excuse for the default.

**ANSWER: Denied as untrue.**

28. Admit that the summons this Court delivers to the U.S. Marshal and the U.S Marshal delivers to Defendants timely.

**ANSWER: Defendants object to this Request for Admission because it is vague and ambiguous. Subject to and without waiving this objection, Defendants cannot truthfully**

35. Admit that Defendants' insurance company Marsh USA Inc has cover, each nine (9) Defendant liable to satisfy all or part of a possible judgment in this action or to indemnify or reimburse for payments made to satisfy judgment.

**ANSWER:** Defendants object to this Request for Admission because it is vague and ambiguous. Subject to and without waiving this objection, Defendants cannot truthfully admit or deny this Request for Admission because it is incomprehensible.

36. Admit that Defendants' insurance company Marsh USA Inc will not offered any money to settle this lawsuit.

**ANSWER:** Denied as untrue.

37. Admit that Defendants will not offer any money to settle this lawsuit.

**ANSWER:** Denied as untrue.

38. Admit that Plaintiff continues to have emotionally pain, weakness, loss of function and loss of endurance in his right Title VI and § 1983 as result of the Defendants' violated.

**ANSWER:** Defendants cannot truthfully admit or deny this Request for Admission because, at this time, Defendants are unable to ascertain Plaintiff's emotions.

Dated: October 6, 2011



Edward J. Bardelli (P53849)  
Gregory M. Kilby (P68266)  
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[gkilby@wnj.com](mailto:gkilby@wnj.com)  
Attorneys for Defendants

THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

GWANJUN KIM

v.

GRAND VALLEY STATE UNIVERSI

:  
: Case No. \_\_\_\_\_  
: Judge: \_\_\_\_\_  
: Corporate Disclosure Statement  
:  
:  
:

Pursuant to the Corporate Disclosure Statement provisions in Local Civil Rule 7.1.1: Any non-governmental corporate party to a proceeding must file a Corporate Affiliations/Financial Interest statement identifying all of its parent, subsidiary and other affiliate corporations and listing any publicly held company that "controls, is controlled by, or is under common control with a publicly controlled corporation." A party must file the statement upon filing a complaint, answer, motion, response or other pleadings in this Court, whichever occurs first. The obligation to disclose any changes will be continuing throughout the pendency of this case.

In Compliance with those provisions, this Corporate Disclosure Statement is filed on behalf of:

GWANJUN KIM

1. Is said party a parent, subsidiary or other affiliate of a publicly owned corporations?

☐ YES ☒ NO

If the answer is YES, list below the identity of the parent, subsidiary or other affiliate corporation and the relationship between it and the named party:

\_\_\_\_\_  
\_\_\_\_\_

2. Is there a publicly owned corporation, not a party to the case, that has a financial interest in the outcome?

☐ YES ☒ NO

If the answer is YES, list the identity of such corporation and the nature of the financial interest.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
Signature of Counsel

01/12/2018  
Date

"Certificate of Service"

**COUNSEL ARE REMINDED OF THEIR CONTINUING OBLIGATION  
TO UPDATE AND SUPPLEMENT THIS STATEMENT**